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PLR-149958-12

Date:

May 20, 2013

Legend

Distributing 1 =

Distributing 2 =

Distributing 3 =

Distributing 4 =

Distributing 5 =

Distributing 6 =

Distributing 7 =

Distributing 8 =

Distributing 9 =

Controlled 1 =

Controlled 2 =

Controlled 3 =

Controlled 4 =

Controlled 5 =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

Sub 6 =

PLR-149958-12

3

Sub 7 =

Sub 8 =

Sub 9 =

Sub 10 =

Sub 11 =

Sub 12 =

Sub 13 =

Sub 14 =

Sub 15 =

Sub 16 =

FSub 1 =

FSub 2 =

FSub 3 =

PLR-149958-12

4

FSub 4 =

FSub 5 =

FSub 6 =

PRS 1 =

PRS 2 =

DRE 1 =

DRE 2 =

DRE 3 =

DRE 4 =

DRE 5 =

DRE 6 =

DRE 7 =

DRE 8 =

DRE 9 =

PLR-149958-12

5

Business 3 DREs =

DRE 10 =

DRE 11 =

DRE 12 =

DRE 13 =

DRE 14 =

DRE 15 =

DRE 16 =

DRE 17 =

DRE 18 =

DRE 19 =

Business 1 =

Business 2 =

Business 3 =

Sub 5 Business =

PLR-149958-12

6

Sub 6 Business =

Sub 9 Business =

FSub 1 Business =

FSub 2 Business =

PRS 1 Business =

PRS 2 Business =

Business 3 DREs
Business =

State A =

Country A =

Country B =

Shareholder A =

Shareholder B =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

a =

b =

c =

d =

e =

f =

g =

h =

i =

j =

k =

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n =

o =

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aa =

Dear :

This letter responds to a letter dated November 20, 2012, submitted by your authorized representatives, requesting rulings with respect to the federal income tax consequences of a proposed transaction described below (the "Proposed Transaction"). The information submitted in that request and in subsequent correspondence is summarized below.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

In particular, this office has not reviewed any information pertaining to, and has made no determination regarding whether any of the Distributions (described below): (i) satisfy the business purpose requirement of Treas. Reg. § 1.355-2(b) of the Income Tax Regulations; (ii) are used principally as a device for the distribution of the earnings and profits of any distributing corporation or any controlled corporation or both (see section 355(a)(1)(B) of the Internal Revenue Code and Treas. Reg. § 1.355-2(d)); and (iii) are part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in any distributing corporation or any controlled corporation (see section 355(e)(2)(A)(ii) and Treas. Reg. § 1.355-7).

Summary of Facts

Distributing 8, a publicly traded State A corporation, is the parent of a worldwide group of entities (the "Distributing 8 Worldwide Group") and is also the common parent of an affiliated group of corporations filing a consolidated federal income tax return. The Distributing 8 Worldwide Group is engaged primarily in Business 1 and Business 2. Distributing 8 has a single class of nonvoting common stock (the "Distributing 8 Class A Common") and a single class of voting common stock (the "Distributing 8 Class B Common") outstanding. As of Date 1, Distributing 8, through SEC filings, identified four

shareholders that owned _____ percent or more of the Distributing 8 Class A Common. As of Date 2, Shareholder A owned approximately a percent of Distributing 8 Class B Common and b percent of the total value of the outstanding stock in Distributing 8, and Shareholder B owned approximately c percent of the Distributing 8 Class B Common. In addition, Sub 4 and Sub 11 own Distributing 8 Class A Common, and DRE 14, DRE 15, and DRE 16 own both Distributing 8 Class A Common and Distributing 8 Class B Common. DRE 14, DRE 15, and DRE 16, collectively, are referred to as the Country A Shareholders.

Distributing 8 owns all of the equity interests in Sub 1 and Distributing 7, each a State A corporation, DRE 1, a Country B entity, DRE 2, a State A limited liability company, and DRE 3, a Country A entity. DRE 1, DRE 2, and DRE 3 are disregarded as entities separate from Distributing 8 for federal income tax purposes. Distributing 8 owns an approximately d percent interest in Sub 2 and an approximately e percent interest in Sub 3, each a State A corporation.

Sub 1 owns all of the interests in DRE 4, a State A limited liability company, which owns all of the stock of Sub 4, a State A corporation. DRE 4 is disregarded as an entity separate from Sub 1 for federal income tax purposes.

Sub 2 owns all of the stock of Sub 5, a State A corporation. Sub 5 directly conducts the Sub 5 Business (which is part of Business 2).

Distributing 7 owns all of the stock of Sub 6 and Distributing 6, each a State A corporation. Sub 6 directly conducts the Sub 6 Business (which is part of Business 1). Sub 6 owns all of the interests in DRE 5, a State A limited liability company, and Sub 7, a State A corporation. DRE 5 is disregarded as an entity separate from Sub 6 for federal income tax purposes. DRE 5 owns all of the stock of Sub 8, a State A corporation, which owns all of the stock of FSub 1, a Country A corporation. FSub 1 directly conducts the FSub 1 Business (which is part of Business 1). Sub 7 owns all of the stock of FSub 2, a Country A corporation. FSub 2 directly conducts the FSub 2 Business (which is part of Business 1). Distributing 6 owns all of the stock of Distributing 5, a State A corporation, which owns all of the stock of Distributing 4, a State A corporation, which owns all of the interests in Controlled 3 and Sub 9, each a State A corporation. Sub 9 directly conducts the Sub 9 Business (which is part of Business 1). Controlled 3 and Distributing 4 own f percent and g percent, respectively, of the interests in PRS 1, a State A limited liability company treated as a partnership for federal income tax purposes. PRS 1 directly conducts the PRS 1 Business (which is part of Business 1).

Sub 3 owns all of the stock of Sub 10, a State A corporation, and all of the common stock and approximately h percent of the preferred stock of Distributing 9, a State A corporation. Sub 10 owns the remaining preferred stock of Distributing 9. Distributing 9 owns approximately i percent of the stock of Sub 3. Distributing 9 also owns all of the interests in Sub 11, a State A corporation, DRE 6, a State A limited liability company,

DRE 7, a State A limited liability company, and Sub 12, a State A corporation. DRE 6 and DRE 7 are disregarded as entities separate from Distributing 9 for federal income tax purposes.

DRE 1 owns j percent of the stock of FSub 3, a Country B corporation. Sub 12 owns the remaining k percent of the stock of FSub 3.

DRE 2 owns an approximately l percent interest in FSub 4, a Country A entity that is treated as a corporation for federal income tax purposes. Distributing 8 owns the remaining approximately m percent interest in FSub 4. FSub 4 owns all of the interests in DRE 8, a Country A entity, which owns all of the interests in DRE 9, a Country A entity, which owns all of the stock of Distributing 2, a Country A corporation. DRE 8 and DRE 9 are each disregarded as an entity separate from FSub 4 for federal income tax purposes. DRE 9 owns an indirect n percent interest in PRS 2, a Country A entity treated as a partnership for federal income tax purposes, and Distributing 2 owns the remaining o percent interest in PRS 2 directly. PRS 2 directly conducts the PRS 2 Business (which is part of Business 2). DRE 9 acquired a portion of its interest in PRS 2 from an unrelated third party on Date 3. Distributing 2 owns p percent of the stock in Distributing 1, a Country A corporation. Distributing 1 owns all of the interests in the Business 3 DREs. The Business 3 DREs are each disregarded as an entity separate from Distributing 1 and certain of the Business 3 DREs directly conduct the Business 3 DREs Business (which is part of Business 2).

DRE 3 owns a q percent interest in FSub 5, a Country A corporation. Distributing 2 owns the remaining r percent interest in FSub 5. FSub 5 owns all of the interests in DRE 10, a Country A entity, and Sub 13, a State A corporation. DRE 10 is disregarded as an entity separate from FSub 5 for federal income tax purposes. DRE 10 owns an s percent interest in DRE 11, a Country A entity. FSub 5 owns the remaining t percent interest in DRE 11. DRE 11 is disregarded as an entity separate from FSub 5 for federal income tax purposes. DRE 11 owns all of the interests in DRE 12, a Country A entity, and Sub 14, a State A corporation. DRE 12 is disregarded as an entity separate from FSub 5 for federal income tax purposes. DRE 11 also owns approximately u percent of the stock of FSub 6, a Country A corporation. DRE 12 owns approximately v percent of the stock of FSub 6, and certain Business 3 DREs collectively own the remaining approximate w percent of the stock of FSub 6. FSub 6 owns all of the interests in DRE 13, a Country A entity, and x percent of the stock of Distributing 1. DRE 13 is disregarded as an entity separate from FSub 6 for federal income tax purposes. DRE 13 owns all of the stock of Sub 15, a State A corporation, which owns all of the interests in DRE 14, a Country A entity. DRE 14 is disregarded as an entity separate from Sub 15 for federal income tax purposes. Sub 14 owns all of the interests in DRE 15, a Country A entity that is disregarded as an entity separate from Sub 14 for federal income tax purposes. Sub 13 owns all of the interests in DRE 16, a Country A entity that is disregarded as an entity separate from Sub 13 for federal income tax purposes. Sub 13, Sub 14, and Sub 15 are collectively referred to as the "U.S. Shareholders."

The taxpayer has submitted financial information indicating that each of the FSub 1 Business, Business 3 DREs Business, PRS 1 Business, FSub 2 Business, PRS 2 Business, Sub 9 Business, Sub 6 Business, and Sub 5 Business operations has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years. The taxpayer will rely on these businesses to satisfy the active trade or business requirement of section 355(b) for the Distributions seeking qualification under section 355.

Distributing 8 has determined that the separation of Business 2 from Business 1 will allow each company to (i) focus on and pursue distinct strategic priorities and industry-specific opportunities that would maximize each company's long-term potential and increase flexibility; (ii) have greater flexibility to create tailored capital structures, and allocate and deploy resources in a manner consistent with each company's strategic objectives, including return of capital and investment opportunities; (iii) create equity-based compensation programs to better reflect the specific business objectives, goals, and financial performance of each business; (iv) enhance share value and create separate acquisition currencies to increase each company's flexibility to optimize its capital structure and financial capacity to pursue future acquisitions; and (v) have the potential to raise more capital through more tailored equity ownership, which, as pure-play companies, should allow more accessibility to research analysis.

Proposed Transaction

For what are represented to be valid business reasons, the following transaction has been proposed to accomplish the separation of Business 2 from Business 1:

- (i) Certain members of the Distributing 8 Worldwide Group participating in the Proposed Transaction will satisfy outstanding intercompany balances prior to the External Distribution (defined below).
- (ii) Sub 8 will sell the stock of FSub 1 to Distributing 1 in exchange for a note.
- (iii) FSub 1 will elect to be classified as disregarded as an entity separate from Distributing 1 for federal income tax purposes.
- (iv) On Date 4, Distributing 8 formed Controlled 5, a State A limited liability company that is classified as disregarded as an entity separate from Distributing 8 for federal income tax purposes.
- (v) Controlled 5 will form DRE 17, a State A limited liability company that will be classified as disregarded as an entity separate from Distributing 8 for federal income tax purposes.

- (vi) Controlled 5 and DRE 17 will form Distributing 3, a Country A entity that will be classified as disregarded as an entity separate from Distributing 8 for federal income tax purposes.
- (vii) Distributing 3 will form DRE 18, a Country A entity that will elect to be classified as disregarded as an entity separate from Distributing 8 for federal income tax purposes.
- (viii) DRE 18 will form DRE 19, a Country A entity that will elect to be classified as disregarded as an entity separate from Distributing 8 for federal income tax purposes.
- (ix) DRE 19 will form Controlled 1, a Country A corporation.

Controlled 1 Contributions and Distributions 1-2.

- (x) Distributing 1 will sell its interests in the Business 3 DREs to Controlled 1 in exchange for two notes ("Note 1" and "Note 2"). Note 1 will equal the value of the w percent interest the Business 3 DREs hold in FSub 6. Note 2 will equal the value of the Business 3 DREs less the Note 1 amount.
- (xi) The Business 3 DREs will sell their w percent interest in FSub 6 to Distributing 1 in exchange for Note 1. The Business 3 DREs will distribute Note 1 to Controlled 1, and Note 1 will be cancelled.
- (xii) Distributing 1 will distribute Note 2 to Distributing 2 in exchange for a portion of its stock.
- (xiii) Distributing 2 will sell its Business 3 business to Controlled 1 in exchange for a note ("Note 3").
- (xiv) Distributing 2 will distribute Note 2 and Note 3, through DRE 9 and DRE 8, to FSub 4.
- (xv) FSub 4 will distribute Note 2 and Note 3, directly and through DRE 2, to Distributing 8, and Distributing 8 will contribute Note 2 and Note 3, through its subsidiaries, to Controlled 1. Note 2 and Note 3 will be cancelled.

(Steps (x) through (xii) and steps (xiv) through (xv) are collectively referred to as the "First Controlled 1 Contribution" and "Distribution 1"; steps (xiii) through (xv) are collectively referred to as the "Second Controlled 1 Contribution" and "Distribution 2.")

FSub 4 Reorganization

- (xvi) Distributing 8 will contribute its interests in FSub 4 and DRE 2 to Controlled 5. Controlled 5 will contribute its interests in FSub 4 and DRE 2 to Distributing 3 and DRE 17, respectively. DRE 17 will contribute its interest in DRE 2 to Distributing 3.
- (xvii) Distributing 3 will elect to be classified as a corporation for federal income tax purposes, and FSub 4 will elect to be classified as disregarded as an entity separate from Distributing 3 for federal income tax purposes (collectively, the “FSub 4 Reorganization”).

Controlled 2 Contribution and Distributions 3-4

- (xviii) Distributing 2 will form Controlled 2, a Country A corporation.
- (xix) Sub 7 will sell the stock of FSub 2 to Controlled 2 in exchange for a note. FSub 2 will elect to be disregarded as an entity separate from Controlled 2 for federal income tax purposes.
- (xx) Distributing 2 will transfer its percent interest in FSub 5, its remaining stock interest in Distributing 1, and other Business 1 assets, if any, to Controlled 2. Distributing 2 will then sell the stock of Controlled 2 to DRE 3 in exchange for a note (“Note 4”).
- (xxi) Distributing 2 will distribute Note 4, through DRE 9 and DRE 8, to FSub 4, and FSub 4 will distribute Note 4, directly and through DRE 2, to Distributing 3.
- (xxii) Distributing 3 will distribute Note 4, directly and through DRE 17 and Controlled 5, to Distributing 8.
- (xxiii) Distributing 8 will contribute Note 4 to DRE 3, and Note 4 will be canceled.

(Steps (xx) through (xxiii) are collectively referred to as the “Controlled 2 Contribution,” “Distribution 3,” and “Distribution 4.”)

U.S. Internal Restructuring

- (xxiv) Sub 10 will liquidate into Sub 3.
- (xxv) Sub 3 will merge with and into Distributing 9 pursuant to State A law with Distributing 9 surviving the merger (the “Sub 3 Merger”).

- (xxvi) Sub 1 will convert to a limited liability company pursuant to State A law and will be disregarded as an entity separate from Distributing 8 for federal income tax purposes.
- (xxvii) Sub 4 will convert to a limited liability company pursuant to State A law and will be disregarded as an entity separate from Distributing 8 for federal income tax purposes.

Controlled 3 Contribution and Distributions 5-8

- (xxviii) Distributing 4 will transfer its g percent interest in PRS 1 to Controlled 3 (the “Controlled 3 Contribution”).
- (xxix) Distributing 4 will distribute the stock of Controlled 3 to Distributing 5 (“Distribution 5”).
- (xxx) Distributing 5 will distribute the stock of Controlled 3 to Distributing 6 (“Distribution 6”).
- (xxxi) Distributing 6 will distribute the stock of Controlled 3 to Distributing 7 (“Distribution 7”).
- (xxxii) Distributing 7 will distribute the stock of Controlled 3 to Distributing 8 (“Distribution 8”).
- (xxxiii) Controlled 3 will convert to a limited liability company pursuant to State A law and will be disregarded as an entity separate from Distributing 8 for federal income tax purposes (the “Controlled 3 Conversion”).

Distribution 9

- (xxxiv) Distributing 7 will recapitalize into two classes of voting common stock (“Distributing 7 Class A Common” and “Distributing 7 Class B Common”). The Distributing 7 Class A Common will represent at least 80 percent of the total combined voting power of all Distributing 7 classes of stock entitled to vote.
- (xxxv) Distributing 8 will distribute the Distributing 7 Class A Common on a non-pro rata basis to Sub 11 in exchange for all of Sub 11’s Distributing 8 stock (“Distribution 9”).

Distributing 9 Contribution and Sub 11 Contribution

- (xxxvi) Distributing 8 will contribute the Distributing 7 Class B Common to Distributing 9 (together with step (xl), the “Distributing 9 Contribution”).
- (xxxvii) Distributing 9 will contribute the Distributing 7 Class B Common to Sub 11 (the “Sub 11 Contribution”).

Sub 2 Merger

- (xxxviii) Distributing 8 will form a merger subsidiary (“Merger Sub”).
- (xxxix) Merger Sub will merge with and into Sub 2 with Sub 2 surviving the merger. The minority Sub 2 shareholders will receive Distributing 8 Class A Common in exchange for their shares in Sub 2.

Distributing 9 Contribution

- (xl) Distributing 8 will contribute the stock of Sub 2, all of its interests in DRE 1, and certain intercompany accounts to Distributing 9 (together with step (xxxvi), the “Distributing 9 Contribution”).

Sub 16 Exchange

- (xli) Distributing 9 will form Sub 16, a State A corporation, and will contribute its interests in DRE 6 and DRE 7, its stock in Sub 2, and its interests in DRE 1 to Sub 16 in exchange for the common stock and non-voting preferred stock of Sub 16. The non-voting preferred stock will provide for cumulative cash dividends of y% per year, and will be callable after z years or redeemable after aa years at the election of the holder. Distributing 9 will sell all of the Sub 16 non-voting preferred stock to an unrelated party pursuant to a binding commitment (the “Sub 16 Exchange”).

Controlled 4 Contribution and Distribution 10

- (xl ii) Distributing 9 will form Controlled 4, a State A corporation, and will contribute the stock of Sub 16 and other Business 2 assets to Controlled 4 in exchange for the common stock of Controlled 4 (the “Controlled 4 Contribution”).
- (xl iii) Distributing 9 will distribute the stock of Controlled 4 to Distributing 8 (“Distribution 10”).

Controlled 5 Contribution

- (xliv) Controlled 5 will convert to a State A corporation (together with step (xlvi) below, the “Controlled 5 Contribution”).

Controlled 4 Merger

- (xliv) Controlled 4 will merge into Controlled 5 with Controlled 5 surviving pursuant to State A law (the “Controlled 4 Merger”).

External Distribution

- (xlvi) Distributing 8 will contribute an amount of cash determined by its Board of Directors (“Cash Contribution Amount”) and the stock of other corporations related to Business 2 to Controlled 5 in exchange for common stock of Controlled 5 and the assumption of certain liabilities (together with step (xliv), the “Controlled 5 Contribution”).
- (xlvi) Controlled 5 will recapitalize into two classes of stock (“Controlled 5 Class A Common” and “Controlled 5 Class B Common”) similar to the capital structure of Distributing 8 and will increase the number of its shares outstanding.
- (xlviii) Distributing 8 will transfer a note (“Note 5”) to Controlled 5 in exchange for a number of shares equal to the number of shares that will be distributed to the Country A Shareholders in the External Distribution (step (xlix) below).
- (xlix) Distributing 8 will distribute the Controlled 5 Class A Common and Controlled 5 Class B Common to the Distributing 8 shareholders, including the Country A Shareholders, on a pro rata basis based on their ownership of Distributing 8 Class A Common and Distributing 8 Class B Common. In lieu of issuing fractional shares of Controlled 5, a distribution agent will aggregate the fractional shares of Controlled 5 into whole shares and sell the whole shares in the public markets. The distribution agent will distribute the aggregate sales proceeds ratably to Distributing 8 shareholders who otherwise would have received fractional shares of Controlled 5 common stock (the “External Distribution”).
- (l) The Country A Shareholders will distribute their shares in Controlled 5 to the U.S. Shareholders.
- (li) Distributing 8 will transfer Distributing 8 shares to the U.S. Shareholders in exchange for their shares in Controlled 5.
- (lii) Distributing 8 will transfer the Controlled 5 shares received from the U.S. Shareholders to Controlled 5 in satisfaction of Note 5.

On or before the date of the External Distribution, Distributing 8 and Controlled 5 will enter into various agreements (“Post-Separation Agreements”) that will govern their relationship (and that of their respective subsidiaries) after the External Distribution. The Post-Separation Agreements will include a Separation and Distribution Agreement, Transition Services Agreement, Tax Sharing and Indemnification Agreement, Employee Matters Agreement, Intellectual Property License Agreement, and subleases of certain property. As part of these Agreements, Distributing 8 has agreed to indemnify FSub 3 for certain losses associated with legal matters arising in connection with certain conduct occurring prior to the date of the External Distribution (“Legal Matters”).

In addition, certain Controlled 5 group members are involved in pending Country A litigation which may result in such group members receiving significant refund amounts (“Refund Amounts”). If the Refund Amounts are received prior to the External Distribution, the Cash Contribution Amount made by Distributing 8 to Controlled 5 immediately before the External Distribution will be reduced to account for the Refund Amounts. If the Refund Amounts are received by Controlled 5 group members after the External Distribution, the Post-Separation Agreements provide that Controlled 5 must transfer such amounts to Distributing 8 and such payment will be treated as an adjustment to the Cash Contribution Amount as if such payment was made immediately before the Controlled 5 Distribution.

The Separation and Distribution Agreement also provides for a post-closing adjustment (“Cash Contribution Adjustment”) to the Cash Contribution Amount once a final determination of the amount of cash and cash equivalents on hand in Controlled 5 (and its subsidiaries) has been made. To the extent that the amount of cash and cash equivalents either exceeds or is less than the targeted amount, such excess will be returned to Distributing 8 or Distributing 8 will make an additional contribution, as applicable.

Following the External Distribution, no more than three officers or key employees of Distributing 8 (or any of its subsidiaries) will be a director, officer, or key employee of Controlled 5 (or any of its subsidiaries). The majority of the Board of Directors for each of Distributing 8 and Controlled 5 will be independent and non-overlapping.

Representations

Distributing 8 makes the following representations with respect to the FSub 4 Reorganization:

- 1a) Distributing 8, through Controlled 5 and DRE 17, will receive only Distributing 3 interests in the FSub 4 Reorganization.

- 1b) The fair market value of the Distributing 3 interests which Distributing 8, through Controlled 5 and DRE 17, will receive will be approximately equal to the fair market value of the FSub 4 interests Distributing 8 will surrender, through Controlled 5 and DRE 17, in the exchange.
- 1c) Immediately following consummation of the FSub 4 Reorganization, Distributing 8, through Controlled 5 and DRE 17, will own all of the outstanding Distributing 3 interests and, except for Distributing 3 interests issued to Distributing 8, through Controlled 5 and DRE 17, for a nominal amount, will own such interests solely by reason of its ownership of the interests in FSub 4 immediately prior to the FSub 4 Reorganization.
- 1d) Immediately after the FSub 4 Reorganization, Distributing 3 will possess the same assets and liabilities as those possessed by FSub 4 immediately prior to the FSub 4 Reorganization, except for assets used to pay expenses in connection with the FSub 4 Reorganization. These assets used to pay expenses will be less than one percent of the fair market value of the net assets of FSub 4 immediately prior to the FSub 4 Reorganization. No assets will be distributed, and there will be no dissenting shareholders in the FSub 4 Reorganization.
- 1e) The liabilities of FSub 4 to be assumed (within the meaning of section 357(d)) by Distributing 3 plus the liabilities, if any, to which the transferred assets are subject, were incurred by FSub 4 in the ordinary course of its business and are associated with the assets to be transferred.
- 1f) FSub 4 will be eligible to elect to be treated as disregarded as an entity separate from its owner under Treas. Reg. §§ 301.7701-2 and 301.7701-3 and will make such election effective at least one day after Distributing 3 acquires its shares.
- 1g) At the time of the FSub 4 Reorganization, FSub 4 will not have any outstanding warrants, options, convertible securities, or any other type of right pursuant to which any person could acquire stock in FSub 4.
- 1h) Immediately after the FSub 4 Reorganization, Distributing 8's proportionate interest in Distributing 3, held through Controlled 5 and DRE 17, will be the same as its proportionate interest in FSub 4, held through Controlled 5 and DRE 17, immediately before the FSub 4 Reorganization. For purposes of this representation, any variation in Distributing 8's proportionate interest in Distributing 3, held through Controlled 5 and DRE 17, from the proportionate interest that Distributing 8 held in FSub 4, held through Controlled 5 and DRE 17, will be less than one percent. Rev. Rul. 66-284, 1966-2 C.B. 115.

- 1i) At the time of the FSub 4 Reorganization, FSub 4 will not be under the jurisdiction of a court in a Title 11 or similar case within the meaning of section 368(a)(3)(A).
- 1j) At all times prior to acquiring the assets of FSub 4 in the FSub 4 Reorganization: (i) Distributing 3 will have been engaged in no business activity; (ii) Distributing 3 will have had no federal income tax attributes (attributes described in section 381(c)); and (iii) Distributing 3 will have held no assets (except for a nominal amount of cash transferred by Distributing 8, through Controlled 5 and DRE 17).
- 1k) Each party will pay its own expenses, if any, incurred in connection with the FSub 4 Reorganization.
- 1l) The FSub 4 Reorganization will be carried out for the corporate business purpose of facilitating the External Distribution.
- 1m) At all times before the FSub 4 Reorganization, FSub 4 will not be a passive foreign investment company (within the meaning of section 1297(a)), and immediately after the FSub 4 Reorganization, Distributing 3 will not be a passive foreign investment company (within the meaning of section 1297(a)).
- 1n) FSub 4 will not hold any United States real property interests, as defined in section 897(c)(1), immediately before the FSub 4 Reorganization, and Distributing 3 will not hold any such interests immediately after the FSub 4 Reorganization.
- 1o) Distributing 8 will be a section 1248 shareholder with respect to FSub 4 immediately before the FSub 4 Reorganization, within the meaning of Treas. Reg. § 1.367(b)-2(b), and a section 1248 shareholder with respect to Distributing 3 immediately after the FSub 4 Reorganization.
- 1p) Distributing 8 will comply with the requirements of Treas. Reg. § 1.367(b)-4(d) with respect to subsequent exchanges of Distributing 3 stock received in the FSub 4 Reorganization.
- 1q) The FSub 4 Reorganization will be an exchange to which Treas. Reg. § 1.367(b)-1(c) applies. The notice requirements of Treas. Reg. § 1.367(b)-1(c)(1) will be met for the FSub 4 Reorganization.
- 1r) With respect to any existing gain recognition agreement entered into by any member of the U.S. group in connection with a prior transfer of stock or securities to FSub 4, the U.S. group member will, in accordance with Treas.

Reg. § 1.367(a)-8(k)(6)(ii), enter into a new gain recognition agreement as described in Treas. Reg. § 1.367(a)-8(c)(5) that designates Distributing 3 as the transferee foreign corporation for purposes of Treas. Reg. § 1.367(a)-8, and comply with the notification requirements thereunder.

- 1s) Immediately prior to the FSub 4 Reorganization, no part of FSub 4's earnings and profits will be comprised of effectively connected earnings and profits (as defined in either section 884(d) or 884(b)(2)(B)(ii)).

Distributing 8 makes the following representations with respect to the Sub 3 Merger and the Controlled 4 Merger:

Sub 3 Merger

- (2a) The Sub 3 Merger will be effected pursuant to the laws of State A and will qualify as a statutory merger under applicable State A law. Pursuant to the plan of merger, by operation of law, the following events will occur simultaneously at the effective time of the Sub 3 Merger: (i) all of the assets and all of the liabilities (except to the extent satisfied or discharged in the transaction) of Sub 3 immediately before the Sub 3 Merger will become the assets and liabilities of Distributing 9 and (ii) Sub 3 will cease its separate legal existence for all purposes.
- (2b) The fair market value of the Distributing 9 stock received by Distributing 8 in the Sub 3 Merger will be approximately equal to the fair market value of the Sub 3 stock surrendered by Distributing 8 in the Sub 3 Merger.
- (2c) All of the proprietary interests in Sub 3 will be preserved (within the meaning of Treas. Reg. §1.368-1(e)(1)).
- (2d) There is no plan or intention for Distributing 9 to acquire any of the Distributing 9 stock received by Distributing 8 in exchange for its Sub 3 stock.
- (2e) Distributing 9 has no plan or intention to sell or otherwise dispose of any of the assets of Sub 3 acquired in the Sub 3 Merger, other than dispositions in the ordinary course of business.
- (2f) The liabilities of Sub 3 assumed (within the meaning of section 357(d)) by Distributing 9 and the liabilities to which the transferred assets of Sub 3 are subject were incurred by Sub 3 in the ordinary course of its business and are associated with the assets transferred.
- (2g) Following the Sub 3 Merger, Distributing 9 will continue Sub 3's historic business or use a significant portion of Sub 3's historic business assets in a business.

- (2h) Each of the parties to the Sub 3 Merger will pay their respective expenses, if any, incurred in connection with the Sub 3 Merger.
- (2i) No intercorporate debt exists between Sub 3 and Distributing 9 that was issued, acquired, or will be settled at a discount.
- (2j) No two parties to the Sub 3 Merger are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (2k) Sub 3 is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of section 368(a)(3)(A).
- (2l) The total fair market value of the assets of Sub 3 transferred to Distributing 9 will exceed the sum of the amount of liabilities assumed (within the meaning of section 357(d)) by Distributing 9 in the merger plus the amount of liabilities, if any, to which the transferred assets are subject.
- (2m) Immediately after the Sub 3 Merger, the fair market value of the assets of Distributing 9 will exceed the amount of its liabilities.

Controlled 4 Merger

- (3a) The Controlled 4 Merger will be effected pursuant to the laws of State A and will qualify as a statutory merger under applicable State A law. Pursuant to the plan of merger, by operation of law, the following events will occur simultaneously at the effective time of the Controlled 4 Merger: (i) all of the assets and all of the liabilities (except to the extent satisfied or discharged in the transaction) of Controlled 4 will become the assets and liabilities of Controlled 5 and (ii) Controlled 4 will cease its separate legal existence for all purposes.
- (3b) The fair market value of the Controlled 5 stock received by Distributing 8 in the Controlled 4 Merger will be approximately equal to the fair market value of the Controlled 4 stock surrendered by Distributing 8 in the Controlled 4 Merger.
- (3c) All of the proprietary interests in Controlled 4 will be preserved (within the meaning of Treas. Reg. § 1.368-1(e)(1)).
- (3d) There is no plan or intention for Controlled 5 to acquire any of the Controlled 5 stock received by Distributing 8 in exchange for its Controlled 4 stock.

- (3e) Controlled 5 has no plan or intention to sell or otherwise dispose of any of the assets of Controlled 4 acquired in the Controlled 4 Merger, other than dispositions in the ordinary course of business.
- (3f) The liabilities, if any, of Controlled 4 assumed (within the meaning of section 357(d)) by Controlled 5 and the liabilities to which the transferred assets of Controlled 4 are subject were incurred by Controlled 4 in the ordinary course of its business and are associated with the assets transferred.
- (3g) Following the Controlled 4 Merger, Controlled 5 will continue the historic business of Controlled 4 or use a significant portion of Controlled 4's historic business assets in a business.
- (3h) Each of the parties to the Controlled 4 Merger will pay their respective expenses, if any, incurred in connection with the Controlled 4 Merger.
- (3i) No intercorporate debt exists between Controlled 4 and Controlled 5 that was issued, acquired, or will be settled at a discount.
- (3j) No two parties to the Controlled 4 Merger are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (3k) Controlled 4 is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of section 368(a)(3)(A).
- (3l) The total fair market value of the assets of Controlled 4 transferred to Controlled 5 will exceed the sum of the amount of liabilities assumed (within the meaning of section 357(d)) by Controlled 5 in the merger plus the amount of liabilities, if any, to which the transferred assets are subject.
- (3m) Immediately after the Controlled 4 merger, the fair market value of the assets of Controlled 5 will exceed the amount of its liabilities.

Distributing 8 makes the following representations with respect to the Controlled 3 Conversion:

- (4a) Controlled 3 and Distributing 8 will adopt a plan of liquidation by conversion of Controlled 3 into a limited liability company (the "Controlled 3 Plan of Liquidation"), and the Controlled 3 conversion will occur pursuant to the Controlled 3 Plan of Liquidation.
- (4b) Distributing 8, on the date of adoption of the Controlled 3 Plan of Liquidation (the "Controlled 3 Plan Date"), and at all times until the Controlled 3

Conversion is completed, will own 100 percent of the single outstanding class of Controlled 3 stock.

- (4c) No shares of Controlled 3 will have been redeemed during the three years preceding the Controlled 3 plan date.
- (4d) All deemed transfers from Controlled 3 to Distributing 8 will occur on the date of the Controlled 3 Conversion.
- (4e) Upon the Controlled 3 Conversion, Controlled 3 will cease to be a going concern, and will cease to conduct any activities as a corporation, for federal income tax purposes.
- (4f) Upon the Controlled 3 Conversion, all of the stock of Controlled 3 will be cancelled, and it will cease to exist as a corporation, for federal income tax purposes.
- (4g) Controlled 3 (as a corporation) will not retain any assets following the Controlled 3 Conversion for federal income tax purposes.
- (4h) Except as provided for in the Proposed Transaction, Controlled 3 will not have acquired assets in any nontaxable transaction at any time, except for acquisitions occurring more than three years prior to the Controlled 3 Plan Date.
- (4i) Except for dispositions in the ordinary course of business and dispositions occurring more than three years prior to the Controlled 3 Plan Date, no assets of Controlled 3 have been, or will be, disposed of by either Controlled 3 or Distributing 8.
- (4j) The Controlled 3 Conversion will not be preceded or followed by the reincorporation in, or transfer or sale to, a recipient corporation ("Recipient") of any of the businesses or assets of Controlled 3, if persons holding, directly or indirectly, more than 20 percent in value of the Controlled 3 stock also hold, directly or indirectly, more than 20 percent in value of the stock in Recipient. For purposes of this representation, ownership will be determined by application of the constructive ownership rules of section 318(a) as modified by section 304(c)(3).
- (4k) Following the Controlled 3 Conversion, there is no plan or intention to undertake any action (e.g., an election to be treated as an association taxable as a corporation for federal income tax purposes under Treas. Reg. § 301.7701-3, etc.), and no other circumstance will exist (e.g., the existence of a second regarded owner of a member interest), that will prevent Controlled 3 from being treated as disregarded as separate from the owner

of its membership interests for federal income tax purposes under Treas. Reg. §§ 301.7701-2 and 301.7701-3.

- (4l) Prior to the Controlled 3 Plan Date, no assets of Controlled 3 will have been distributed in kind, transferred, or sold to Distributing 8, except for (i) transactions occurring in the normal course of business and (ii) transactions occurring more than three years prior to the Controlled 3 Plan Date.
- (4m) Controlled 3 will report all earned income represented by assets that will be deemed distributed to Distributing 8.
- (4n) The fair market value of the assets of Controlled 3 will exceed its liabilities both at the Controlled 3 Plan Date and immediately prior to the time of the Controlled 3 Conversion.
- (4o) No intercorporate debt exists between Distributing 8 and Controlled 3 and none has been cancelled, forgiven, or discounted, except for transactions that occurred more than three years prior to the Controlled 3 Plan Date.
- (4p) Distributing 8 is not an organization that is exempt from federal income tax under section 501 or any other provision of the Code.
- (4q) All other transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to, the Controlled 3 Conversion have been fully disclosed.

Distributing 8 makes the following representations with respect to the Distributing 9 Contribution, Sub 11 Contribution, and Sub 16 Exchange:

Distributing 9 Contribution

- (5a) No stock or securities will be issued for services rendered to or for the benefit of Distributing 9 in connection with the Distributing 9 Contribution, and no stock or securities will be issued for indebtedness of Distributing 9.
- (5b) None of the assets to be transferred in the Distributing 9 Contribution is “section 306 stock” within the meaning of section 306(c).
- (5c) The Distributing 9 Contribution is not the result of solicitation by a promoter, broker or investment house.
- (5d) Distributing 8 will not retain any rights in the assets transferred to Distributing 9 in the Distributing 9 Contribution.

- (5e) No liabilities of Distributing 8 will be assumed by Distributing 9 in the Distributing 9 Contribution.
- (5f) The adjusted basis and the fair market value of the assets to be transferred by Distributing 8 to Distributing 9 in the Distributing 9 Contribution will each equal or exceed the sum of the liabilities, if any, to be assumed (within the meaning of section 357(d)) by Distributing 9 plus any liabilities to which the transferred assets are subject.
- (5g) The total fair market value of the assets to be transferred by Distributing 8 to Distributing 9 will exceed the sum of: (i) the amount of liabilities, if any, assumed (within the meaning of section 357(d)) by Distributing 9; (ii) the amount of liabilities owed to Distributing 9 by Distributing 8 that are discharged or extinguished; and (iii) the amount of cash and the fair market value of any other property (other than stock permitted to be received under section 351(a) without the recognition of gain) received by Distributing 8 in the Distributing 9 Contribution.
- (5h) The fair market value of the assets of Distributing 9 will exceed the amount of its liabilities and basis immediately after the Distributing 9 Contribution.
- (5i) There will be no indebtedness created in favor of Distributing 8 as a result of the Distributing 9 Contribution.
- (5j) The transfers and exchanges in the Distributing 9 Contribution will occur under a plan agreed upon before the transaction in which the rights of the parties are defined.
- (5k) The exchange in the Distributing 9 Contribution will occur on a single date.
- (5l) There is no plan or intention on the part of Distributing 9 to redeem or otherwise reacquire any Distributing 9 stock or indebtedness to be issued in the Distributing 9 Contribution.
- (5m) Taking into account any issuance of additional shares in Distributing 9; any issuance of shares for services; the exercise of any Distributing 9 stock rights, warrants or subscriptions; a public offering of Distributing 9 shares; and the sale, exchange, transfer by gift or other disposition of any of the shares in Distributing 9 to be received in the exchange, Distributing 8 will be in "control" of Distributing 9 within the meaning of section 368(c).
- (5n) Distributing 8 will receive stock of Distributing 9 approximately equal to the fair market value of the property transferred to Distributing 9.

- (5o) Other than as described in the Proposed Transaction, Distributing 9 will remain in existence and retain and use the property transferred to it in a trade or business.
- (5p) Other than as described in the Proposed Transaction, there is no plan or intention by Distributing 9 to dispose of the transferred property other than in the normal course of business operations.
- (5q) Each of the parties to the Distributing 9 Contribution will pay their own expenses, if any, incurred in connection with the Distributing 9 Contribution.
- (5r) Distributing 9 will not be an investment company within the meaning of section 351(e)(1) and Treas. Reg. § 1.351-1(c)(1)(ii).
- (5s) Distributing 8 is not under the jurisdiction of a court in a Title 11 or similar case (within the meaning of section 368(a)(3)(A)) and the Distributing 9 stock or securities received in the exchange will not be used to satisfy the indebtedness of such debtor.
- (5t) Distributing 9 will not be a "personal service corporation" within the meaning of section 269A.

Sub 11 Contribution

- (6a) No stock or securities will be issued for services rendered to or for the benefit of Sub 11 in connection with the Sub 11 Contribution, and no stock or securities will be issued for indebtedness of Sub 11.
- (6b) None of the Distributing 7 Class B common stock to be transferred is "section 306 stock" within the meaning of section 306(c).
- (6c) The Sub 11 Contribution is not the result of solicitation by a promoter, broker or investment house.
- (6d) Distributing 9 will not retain any rights in the Distributing 7 Class B common stock transferred to Sub 11.
- (6e) The adjusted basis and the fair market value of the Distributing 7 Class B common stock to be transferred by Distributing 9 to Sub 11 will equal or exceed the sum of the liabilities, if any, to be assumed by Sub 11 plus any liabilities to which the Distributing 7 Class B shares are subject.
- (6f) The total fair market value of Distributing 7 Class B common stock transferred from Distributing 9 to Sub 11 will exceed the sum of: (i) the amount of liabilities, if any, assumed (within the meaning of section 357(d)) by Sub 11; (ii) the amount of liabilities owed to Sub 11 by Distributing 9 that

are discharged or extinguished; and (iii) the amount of cash and the fair market value of any other property (other than stock permitted to be received under section 351(a) without the recognition of gain) received by Distributing 9 in the Sub 11 Contribution.

- (6g) The fair market value of the assets of Sub 11 will exceed the amount of its liabilities and basis immediately after the Sub 11 Contribution.
- (6h) No liabilities of Distributing 9 will be assumed by Sub 11 in the Sub 11 Contribution.
- (6i) There is no indebtedness between Distributing 9 and Sub 11 and there will be no indebtedness created in favor of Distributing 9 as a result of the Sub 11 Contribution.
- (6j) The transfers and exchanges in the Sub 11 Contribution will occur under a plan agreed upon before the transaction in which the rights of the parties are defined.
- (6k) The exchange in the Sub 11 Contribution will occur on a single date.
- (6l) There is no plan or intention on the part of Sub 11 to redeem or otherwise reacquire any Sub 11 stock or indebtedness to be issued in the Sub 11 Contribution.
- (6m) Taking into account any issuance of additional shares in Sub 11; any issuance of shares for services; the exercise of any Sub 11 stock rights, warrants or subscriptions; a public offering of Sub 11 shares; and the sale, exchange, transfer by gift or other disposition of any of the shares in Sub 11 to be received in the exchange, Distributing 9 will be in "control" of Sub 11 within the meaning of section 368(c).
- (6n) Distributing 9 will receive stock of Sub 11 approximately equal to the fair market value of the property transferred to Sub 11.
- (6o) Sub 11 will remain in existence and retain and use the property transferred to it in a trade or business.
- (6p) There is no plan or intention by Sub 11 to dispose of the transferred property other than in the normal course of business operations.
- (6q) Distributing 9 and Sub 11 will pay their own expenses, if any, incurred in connection with the Sub 11 Contribution.
- (6r) Sub 11 will not be an investment company within the meaning of section 351(e)(1) and Treas. Reg. § 1.351-1(c)(1)(ii).

- (6s) Distributing 9 is not under the jurisdiction of a court in a Title 11 or similar case (within the meaning of section 368(a)(3)(A)) and the Sub 11 stock or securities received in the exchange will not be used to satisfy the indebtedness of such debtor.
- (6t) Sub 11 will not be a "personal service corporation" within the meaning of section 269A.

Sub 16 Exchange:

- (7a) The External Distribution would be pursued by Distributing 8 regardless of whether the Sub 2 and FSub 3 stock losses would be recognized by virtue of the Proposed Transaction.
- (7b) Distributing 8 would be entitled to recognize the losses with respect to the stock of FSub 3 and Sub 2 upon a taxable sale of such stock to an unrelated third party.
- (7c) The j percent of the stock of FSub 3 will be acquired by Sub 16 in a single transfer by Distributing 9 pursuant to the Sub 16 Exchange.
- (7d) At the time of the Sub 16 Exchange, FSub 3 will not have outstanding any warrants, options, convertible securities, or any other type of right pursuant to which any person could acquire stock in FSub 3.
- (7e) The amount of consideration deemed paid for the FSub 3 stock in the Sub 16 Exchange will be approximately equal to the value of the FSub 3 stock acquired.
- (7f) The fair market value of the assets of each of Sub 2 and FSub 3 will exceed each subsidiary's liabilities at the time of the Sub 16 Exchange and after the External Distribution.
- (7g) Except for any asset described in Treas. Reg. § 1.338-8(d)(2), neither Sub 16 nor any member of the Sub 16 affiliated group (within the meaning of section 338(h)(5)) has any plan or intention to acquire from Sub 2 or any subsidiary thereof any asset described in Treas. Reg. § 1.338-8(b)(1) (after application of Treas. Reg. § 1.338-8(b)(2)).
- (7h) The Sub 16 preferred stock will constitute stock in Sub 16 (and not indebtedness) for federal income tax purposes.
- (7i) The terms of the Sale Agreement, pursuant to which Distributing 9 will sell the Sub 16 Preferred Stock to investors will be determined pursuant to arm's length negotiations between Distributing 9, on the one hand, and unrelated third parties, on the other hand.

- (7j) The unrelated third parties that will acquire the Sub 16 preferred stock pursuant to the Sale Agreement will not be parties whose ownership of Sub 16 would be attributed to Distributing 9 pursuant to section 318.
- (7k) At the time Distributing 9 sells the Sub 16 preferred stock to the unrelated third parties, there will be no current plan or intention to redeem the Sub 16 preferred stock before the first date that the Sub 16 preferred stock is callable.
- (7l) Immediately after the External Distribution, Sub 16 will not be attributed any stock held by Distributing 9 under section 318(a) (without regard to section 318(a)(4)).
- (7m) There is no plan or intention for Distributing 9, Sub 16, Sub 2 or FSub 3, to cease to remain in existence as separate corporations for federal income tax purposes.
- (7n) There is no plan or intention on the part of Sub 16 to sell or otherwise dispose of any of the shares of FSub 3 or Sub 2 acquired in the Sub 16 Exchange.
- (7o) Sub 16 preferred stock investors will not cause Distributing 9 and Sub 16 (or Sub 2 or FSub 3) to be members of the same controlled group as defined in section 267(f)(1) if that section was amended by substituting 20 percent for 50 percent following the Proposed Transaction (i.e., 5 or fewer individuals, trusts or estates that hold Sub 16 preferred stock will not own more than 20 percent of the total combined voting power or value of all classes of stock of Distributing 9, on the one hand and Sub 16 (or Sub 2 or FSub 3), on the other hand).
- (7p) Distributing 9, on the one hand, and Sub 16 (and Sub 2 and FSub 3), on the other hand, will cease to be members of the same controlled group as defined in section 267(f)(1) upon the consummation of the External Distribution (i.e., (i) Distributing 9 will not own more than 50 percent of the total voting power or value of all classes of stock of Sub 16 (or Sub 2 or FSub 3), and (ii) 5 or fewer individuals, trusts or estates will not own more than 50 percent of the total voting power or value of all classes of stock of Sub 16 (and Sub 2 and FSub 3)).
- (7q) No holder of Distributing 8 common stock (or Controlled 5 common stock or Sub 16 stock immediately following the External Distribution) will own, within the meaning of section 318, 20 percent or more of the Distributing 8 common stock (or the Controlled 5 common stock or the Sub 16 stock (other than Controlled 5 in the case of Sub 16 stock)).

- (7r) Immediately following the External Distribution, for purposes of Treas. Reg. § 1.197-2(h)(6)(iv)(A)(2), (i) the beneficial ownership interest of Distributing 8 in the stock of each of Controlled 5 and Sub 16 represents less than 10 percent of the total combined voting power of all classes of stock of Controlled 5 and Sub 16 entitled to vote and less than 10 percent of the total value of the shares of all classes of stock of Controlled 5 and Sub 16 outstanding, and (ii) the beneficial ownership interest in each of Controlled 5 and Sub 16 in the stock of Distributing 8, represents less than 10 percent of the total combined voting power of all classes of stock of Distributing 8 entitled to vote and less than 10 percent of the total value of the shares of all classes of stock of Distributing 8 outstanding.
- (7s) The External Distribution is not being engaged in or structured with a principal purpose to avoid the provisions of section 267(f) (including, for example, by avoiding treatment as an intercompany sale or by distorting the timing of losses or deductions) within the meaning of Treas. Reg. § 1.267(f)-1(h).
- (7t) The formation of Sub 16 and the Sub 16 Exchange is not an acquisition described in section 269(a)(1) or (a)(2), the principal purpose of which is evasion or avoidance of U.S. Federal income tax within the meaning of section 269(a).
- (7u) The acquisition of intangible assets of DRE 6 and DRE 7 in the Proposed Transaction is not being undertaken to avoid the operation of the anti-churning rules of section 197(f)(9) and Treas. Reg. § 1.197-2(h)(11).

In the representations that follow, the terms “Controlled,” “Distributing,” “Distributing Shareholder(s),” and “Contribution” are defined for each Distribution as indicated below:

Distribution	Controlled	Distributing	Distributing Shareholder	Contribution
Distribution 1	Controlled 1	Distributing 1	Distributing 2	First Controlled 1 Contribution
Distribution 2	Controlled 1	Distributing 2	FSub 4	Second Controlled 1 Contribution
Distribution 3	Controlled 2	Distributing 2	Distributing 3	Controlled 2 Contribution

Distribution 4	Controlled 2	Distributing 3	Distributing 8	N/A
Distribution 5	Controlled 3	Distributing 4	Distributing 5	Controlled 3 Contribution
Distribution 6	Controlled 3	Distributing 5	Distributing 6	N/A
Distribution 7	Controlled 3	Distributing 6	Distributing 7	N/A
Distribution 8	Controlled 3	Distributing 7	Distributing 8	N/A

The term “Active Business” refers to the active trade or business, as defined in section 355(b) and related Treasury Regulations, of a particular Distributing or Controlled, as appropriate.

Distributing 8 makes the following representations for each of Distribution 1, Distribution 2, Distribution 3, and Distribution 4:

- (8a) Any indebtedness owed by Controlled to Distributing after the Distribution will not constitute stock or securities.
- (8b) The fair market value of common stock received by Distributing 2 will be approximately equal to the fair market value of the Distributing 1 common stock surrendered by Distributing 2 in the exchange.
- (8c) No part of the consideration to be distributed by Distributing in the Distribution will be received by Distributing Shareholder as a creditor, employee, or in any capacity other than that of a shareholder of Distributing.
- (8d) In applying section 355(b)(2)(A) regarding the active conduct of a trade or business, Distributing 3 will treat all members of its separate affiliated group, as defined in section 355(b)(3)(B), (“SAG”) (the “Distributing 3 SAG”) as one corporation. For purposes of representations (8e), (8g), and (8i), references to Distributing include the Distributing 3 SAG.
- (8e) The five years of financial information submitted on behalf of the Distributing Active Business is representative of the present operation of the Distributing Active Business, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (8f) The five years of financial information submitted on behalf of the Controlled Active Business is representative of the present operation of the Controlled Active Business, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (8g) Other than as described in the Proposed Transaction, Distributing neither acquired the Distributing Active Business nor acquired control of an entity

conducting the Distributing Active Business during the five-year period ending on the date of the Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.

- (8h) Other than as described in the Proposed Transaction, Controlled neither acquired the Controlled Active Business nor acquired control of an entity conducting the Controlled Active Business during the five-year period ending on the date of the Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.
- (8i) Following the Distribution, Distributing and Controlled will each continue the active conduct of the Distributing Active Business (Distributing) and the Controlled Active Business (Controlled), independently and with their separate employees.
- (8j) The Distribution is being carried out for the corporate business purpose of facilitating the External Distribution and is motivated, in whole or substantial part, by this corporate business purpose.
- (8k) The Distribution is not being used principally as a device for the distribution of the earnings and profits of Distributing or Controlled or both.
- (8l) For Distributions 1, 3, and 4, the total adjusted bases and fair market value of the assets transferred to Controlled by Distributing in the Contribution will equal or exceed the sum of the total liabilities assumed (within the meaning of section 357(d)), if any, by Controlled plus any liabilities to which the transferred assets are subject. For Distribution 2, the fair market value of the assets transferred to Controlled by Distributing in the Contribution will equal or exceed the sum of the total liabilities assumed (within the meaning of section 357(d)), if any, by Controlled plus any liabilities to which the transferred assets are subject.
- (8m) The fair market value of the assets of Controlled will exceed the amount of its liabilities immediately after the Contribution.
- (8n) The liabilities, if any, assumed (within the meaning of section 357(d)) by Controlled in the Contribution were incurred in the ordinary course of business and are associated with the assets being transferred.
- (8o) No intercorporate debt will exist between Distributing and Controlled at the time of, or subsequent to, Distributions 1, 3, and 4.

- (8p) Any intercorporate debt that will exist between Distributing and Controlled at the time of, or subsequent to, Distribution 2 will result from ordinary course intercorporate movements of cash.
- (8q) No two parties to the Distribution are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (8r) For purposes of section 355(d), immediately after the Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Distribution.
- (8s) For purposes of section 355(d), immediately after the Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Distribution, or (ii) attributable to distributions on Distributing stock that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Distribution.
- (8t) The Distribution is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50 percent or greater interest (within the meaning of section 355(d)(4)) in Distributing or Controlled (including any predecessor or successor of any such corporation).
- (8u) Immediately after the Distribution (within the meaning of section 355(g)(4)), either (i) any person that holds a 50 percent or greater interest (within the meaning of section 355(g)(3)) in any disqualified investment corporation (within the meaning of section 355(g)(2)) will have held such an interest in such corporation immediately before the transaction or (ii) neither Distributing nor Controlled is or will be a disqualified investment corporation within the meaning of section 355(g)(2).

- (8v) Distributing 8 will be a section 1248 shareholder, within the meaning of Treas. Reg. § 1.367(b)-2(b), with respect to each of Distributing and Controlled immediately before and after the Distribution.
- (8w) Neither Distributing nor Controlled will be a passive foreign investment company, within the meaning of section 1297(a), immediately before or after the Distribution.
- (8x) Distributing's deemed transfer of assets to Controlled in exchange for stock of Controlled in the Contribution is not an exchange described in Treas. Reg. §§ 1.367(b)-4(b)(1)(i), -4(b)(2)(i), or -4(b)(3).
- (8y) Distributing and Controlled will be controlled foreign corporations, within the meaning of section 957(a), immediately before and after the distribution.
- (8z) Controlled will not hold any United States real property interests, as defined in section 897(c)(1), immediately before or after the distribution.

Distributing 8 makes the following representations with respect to each of Distribution 5, Distribution 6, Distribution 7, and Distribution 8:

- (9a) Any indebtedness owed by Controlled to Distributing after the Distribution will not constitute stock or securities.
- (9b) No part of the consideration to be distributed by Distributing in the Distribution will be received by Distributing Shareholder as a creditor, employee, or in any capacity other than that of a shareholder of Distributing.
- (9c) In applying section 355(b)(2)(A) regarding the active conduct of a trade or business, Distributing will treat all members of its SAG (the "Distributing SAG") as one corporation.
- (9d) The five years of financial information submitted on behalf of the Distributing Active Business is representative of the present operation of the Distributing Active Business, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (9e) The five years of financial information submitted on behalf of the Controlled Active Business is representative of the present operation of the Controlled Active Business, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.

- (9f) The Distributing SAG neither acquired the Distributing Active Business nor acquired control of an entity conducting the Distributing Active Business during the five-year period ending on the date of the Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.
- (9g) Controlled neither acquired the Controlled Active Business nor acquired control of an entity conducting the Controlled Active Business during the five-year period ending on the date of the Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.
- (9h) Following the Distribution, the Distributing SAG and Controlled will each continue the active conduct of the Distributing Active Business (Distributing SAG) and the Controlled Active Business (Controlled), independently and with its separate employees.
- (9i) The Distribution is being carried out for the corporate business purpose of facilitating the External Distribution and is motivated, in whole or substantial part, by this corporate business purpose.
- (9j) The Distribution is not being used principally as a device for the distribution of earnings and profits of Distributing or Controlled or both.
- (9k) The total adjusted bases and fair market value of the assets transferred to Controlled by Distributing in the Contribution will equal or exceed the sum of the total liabilities assumed (within the meaning of section 357(d)), if any, by Controlled, plus any liabilities to which the transferred assets are subject. The fair market value of the assets of Controlled will exceed the amount of its liabilities immediately after the Controlled Contribution.
- (9l) The liabilities, if any, assumed (within the meaning of section 357(d)) by Controlled in the Distribution were incurred in the ordinary course of business and are associated with the assets being transferred.
- (9m) No intercorporate debt will exist between Distributing and Controlled at the time of the Distribution. Any continuing intercorporate debt arising after the Distribution will result from ordinary course intercorporate movements of cash.
- (9n) No two parties to the Distribution are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (9o) For purposes of section 355(d), immediately after the Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50

percent or more of the total combined voting power of all classes of Distributing stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Distribution.

- (9p) For purposes of section 355(d), immediately after the Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Distribution, or (ii) attributable to distributions on Distributing stock that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Distribution.
- (9q) The Distribution is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50 percent or greater interest (within the meaning of section 355(d)(4)) in Distributing or Controlled (including any predecessor or successor of such corporation).
- (9r) Immediately after the Distribution (within the meaning of section 355(g)(4)), either (i) any person that holds a 50 percent or greater interest (within the meaning of section 355(g)(3)) in any disqualified investment corporation (within the meaning of section 355(g)(2)) will have held such an interest in such corporation immediately before the transaction or (ii) neither Distributing nor Controlled is or will be a disqualified investment corporation within the meaning of section 355(g)(2).

Distributing 8 makes the following representations with respect to Distribution 9:

- (10a) Any indebtedness owed by Distributing 7 to Distributing 8 after Distribution 9 will not constitute stock or securities.
- (10b) The fair market value of the common stock received by Sub 11 will be approximately equal to the fair market value of the Distributing 8 common stock surrendered by Sub 11 in the exchange.
- (10c) No part of the consideration to be distributed by Distributing 8 in Distribution 9 will be received by Sub 11 as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 8.

- (10d) In applying section 355(b)(2)(B) regarding the active conduct of a trade or business, Distributing 7 will treat all members of its SAG (the “Distributing 7 SAG”) as one corporation.
- (10e) The five years of financial information submitted on behalf of the Distributing Active Business is representative of the present operation of the Distributing Active Business, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (10f) The five years of financial information submitted on behalf of the Controlled Active Business is representative of the present operation of the Controlled Active Business, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (10g) Distributing 8 neither acquired the Distributing Active Business nor acquired control of an entity conducting the Distributing Active Business during the five-year period ending on the date of Distribution 9 in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.
- (10h) The Distributing 7 SAG neither acquired the Controlled Active Business nor acquired control of an entity conducting the Controlled Active Business during the five-year period ending on the date of Distribution 9 in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.
- (10i) Following Distribution 9, Distributing 8 and the Distributing 7 SAG will each continue the active conduct of the Distributing Active Business (Distributing 8) and the Controlled Active Business (Distributing 7 SAG), independently and with its separate employees.
- (10j) Distribution 9 is not being used principally as a device for the distribution of earnings and profits of Distributing 8 or Distributing 7 or both.
- (10k) Distribution 9 is being carried out for the corporate business purpose of facilitating the External Distribution and is motivated, in whole or substantial part, by this corporate business purpose.
- (10l) No intercorporate debt will exist between Distributing 8 and Distributing 7 at the time of Distribution 9. Any continuing intercorporate debt arising after Distribution 9 will result from ordinary course intercorporate movements of cash.

- (10m) No two parties to Distribution 9 are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (10n) For purposes of section 355(d), immediately after Distribution 9, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing 8 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing 8 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of Distribution 9.
- (10o) For purposes of section 355(d), immediately after Distribution 9, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing 7 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing 7 stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of Distribution 9, or (ii) attributable to distributions on Distributing 8 stock that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on Distribution 9.
- (10p) Distribution 9 is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50 percent or greater interest (within the meaning of section 355(d)(4)) in Distributing 8 or Distributing 7 (including any predecessor or successor of such corporation).
- (10q) Immediately after Distribution 9 (within the meaning of section 355(g)(4)), either (i) any person that holds a 50 percent or greater interest (within the meaning of section 355(g)(3)) in any disqualified investment corporation (within the meaning of section 355(g)(2)) will have held such an interest in such corporation immediately before the transaction or (ii) neither Distributing 8 nor Distributing 7 is or will be a disqualified investment corporation within the meaning of section 355(g)(2).

Distributing 8 makes the following representations with respect to Distribution 10:

- (11a) Any indebtedness owned by Controlled 4 to Distributing 9 after Distribution 10 will not constitute stock or securities.

- (11b) No part of the consideration to be distributed by Distributing 9 in Distribution 10 will be received by Distributing 8 as a creditor, employee or in any capacity other than that of a shareholder of Distributing 9.
- (11c) In applying 355(b)(2)(B) regarding the active conduct of a trade or business, Distributing 9 and Controlled 4 will each treat all members of their respective SAGs (respectively, the “Distributing 9 SAG” and the “Controlled 4 SAG”) as one corporation.
- (11d) The five years of financial information submitted on behalf of the Distributing Active Business is representative of the present operation of the Distributing Active Business, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (11e) The five years of financial information submitted on behalf of the Controlled Active Business is representative of the present operation of the Controlled Active Business, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (11f) The Distributing 9 SAG neither acquired the Distributing Active Business nor acquired control of an entity conducting the Distributing Active Business during the five-year period ending on the date of Distribution 10 in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.
- (11g) Other than as described in the Proposed Transaction, the Controlled 4 SAG neither acquired the Controlled Active Business nor acquired control of an entity conducting the Controlled Active Business during the five-year period ending on the date of Distribution 10 in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.
- (11h) Following Distribution 10, the Distributing 9 SAG and the Controlled 4 SAG will each continue the active conduct of the Distributing Active Business (Distributing 9 SAG) and the Controlled Active Business (Controlled 4 SAG), independently and with its separate employees.
- (11i) Distribution 10 is not being used principally as a device for the distribution of earnings and profits of Distributing 9 or Controlled 4 or both.
- (11j) Distribution 10 is being carried out for the corporate business purpose of facilitating the External Distribution and is motivated, in whole or substantial part, by this corporate business purpose.

- (11k) The total adjusted bases and fair market value of the assets transferred by Distributing 9 to Controlled 4 in the Controlled 4 Contribution will equal or exceed the sum of the total liabilities assumed (within the meaning of section 357(d)), if any, by Controlled 4, plus any liabilities to which the transferred assets are subject. The fair market value of the assets of Controlled 4 will exceed the amount of its liabilities immediately after the Controlled 4 Contribution.
- (11l) The liabilities, if any, assumed (within the meaning of section 357(d)) by Controlled 4 in the Controlled 4 Contribution and the liabilities, if any, to which the assets transferred in the Controlled 4 Contribution are subject were incurred in the ordinary course of business and are associated with the assets being transferred.
- (11m) No intercorporate debt will exist between Distributing 9 and Controlled 4 at the time of, or subsequent to, Distribution 10.
- (11n) No two parties to Distribution 10 are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (11o) For purposes of section 355(d), immediately after Distribution 10, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing 9 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing 9 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of Distribution 10.
- (11p) For purposes of section 355(d), immediately after Distribution 10, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled 4 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled 4 stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of Distribution 10, or (ii) attributable to distributions on Distributing 9 stock that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of Distribution 10.
- (11q) Distribution 10 is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50 percent or

greater interest (within the meaning of section 355(d)(4)) in Distributing 9 or Controlled 4 (including any predecessor or successor of such corporation).

- (11r) Immediately after Distribution 10 (within the meaning of section 355(g)(4)), either (i) any person that holds a 50 percent or greater interest (within the meaning of section 355(g)(3)) in any disqualified investment corporation (within the meaning of section 355(g)(2)) will have held such an interest in such corporation immediately before the transaction or (ii) neither Distributing 9 nor Controlled 4 is or will be a disqualified investment corporation within the meaning of section 355(g)(2).
- (11s) There is no regulatory, legal, contractual or economic compulsion or requirement that Distributing 8 make all or part of the Distributing 9 Contribution as a condition to Distribution 10.

Distributing 8 makes the following representations with respect to the External Distribution:

- (12a) Any indebtedness owed by Controlled 5 to Distributing 8 after the External Distribution will not constitute stock or securities.
- (12b) No part of the consideration to be distributed by Distributing 8 in the External Distribution will be received by a shareholder as a creditor, employee or in any capacity other than that of a shareholder of Distributing 8.
- (12c) In applying section 355(b)(2)(B) regarding the active conduct of a trade or business, Controlled 5 will treat all members of its SAG (the "Controlled 5 SAG") as one corporation.
- (12d) The five years of financial information submitted on behalf of the Distributing Active Business conducted by Distributing 8 is representative of the present operation of the Distributing Active Business, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (12e) The five years of financial information submitted on behalf of the Controlled Active Business conducted by the Controlled 5 SAG is representative of the present operation of the Controlled Active Business, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (12f) Distributing 8 neither acquired the Distributing Active Business nor acquired control of an entity conducting the Distributing Active Business during the five-year period ending on the date of the External Distribution in a

transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.

- (12g) Other than as described in the Proposed Transaction, the Controlled 5 SAG neither acquired the Controlled Active Business nor acquired control of an entity conducting the Controlled Active Business during the five-year period ending on the date of the External Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.
- (12h) Following the External Distribution, Distributing 8 and Controlled 5 will each continue the active conduct of the Distributing Active Business (Distributing 8) and the Controlled Active Business (Controlled 5 SAG), independently and with its separate employees.
- (12i) The External Distribution will be carried out for the following corporate business purposes: (i) to optimize the potential for the Business 1 and Business 2 Businesses by allowing each separate management team to focus on its respective business; (ii) to provide the ability for each of the separate companies to use their stock as acquisition currency; and (iii) to allow compensatory grants to employees within the Business 1 and Business 2 Businesses to be more closely aligned with the performance of such employees in each respective business. The External Distribution is motivated, in whole or substantial part, by these corporate business purposes.
- (12j) The External Distribution is not used principally as a device for the distribution of the earnings and profits of Distributing 8, Controlled 5, or both.
- (12k) The total adjusted bases and fair market value of the assets transferred to Controlled 5 by Distributing 8 in the Controlled 5 Contribution will equal or exceed the sum of: (i) the amount of any liabilities assumed (within the meaning of section 357(d)) by Controlled 5 plus (ii) any liabilities to which the transferred assets are subject; and (iii) the amount of any liabilities owed to Controlled 5 by Distributing 8 that are discharged or extinguished. The fair market value of the assets of Controlled 5 will exceed the amount of its liabilities immediately after the Controlled 5 Contribution.
- (12l) The liabilities, if any, assumed (within the meaning of section 357(d)) by Controlled 5 in the Controlled 5 Contribution and the liabilities to which the transferred assets are subject were incurred in the ordinary course of business and are associated with the assets being transferred.
- (12m) No intercompany debt will exist immediately after the External Distribution, between Distributing 8 or its subsidiaries, on the one hand, and Controlled 5 or its subsidiaries, on the other, except possibly for short-term payables

arising in the ordinary course of business, including in connection with the Post-Separation Agreements.

- (12n) Immediately before the External Distribution, items of income, gain, loss, deduction and credit will be taken into account as required by the applicable intercompany transaction regulations (see Treas. Reg. §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-32. I.R.B. 6, and as currently in effect; Treas. Reg. § 1.1502-13 as published in T.D. 8597). Further, Distributing 8's excess loss account with respect to the Controlled 5 stock, if any, will be included in income immediately before the External Distribution (see Treas. Reg. § 1.1502-19).
- (12o) Payments made in connection with all continuing transactions, if any, between Distributing 8 and Controlled 5 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length, except as provided for in the Post-Separation Agreements.
- (12p) No two parties to the Controlled 5 Contribution and External Distribution are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (12q) No investment credit determined under section 46 has been (or will be) claimed with respect to any property contributed to Controlled 5 by Distributing 8 in connection with the External Distribution.
- (12r) For purposes of section 355(d), immediately after the External Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing 8 entitled to vote or 50 percent or more of the total value of shares of all classes of Distributing 8 that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the External Distribution.
- (12s) For purposes of section 355(d), immediately after the External Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled 5 stock entitled to vote or 50 percent or more of the total value of shares of all classes of Controlled 5 stock that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the External Distribution or (ii) attributable to distributions on any stock of Distributing 8 stock that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the External Distribution.

- (12t) Immediately after the External Distribution, neither Distributing 8 nor Controlled 5 will be a disqualified investment corporation (within the meaning of section 355(g)(2)).
- (12u) The External Distribution is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 1.355-7) pursuant to which one or more persons will acquire, directly or indirectly, stock representing a 50 percent or greater interest (within the meaning of section 355(d)(4)) in Distributing 8 or Controlled 5 (including any predecessor or successor of any such corporation).
- (12v) The payment of cash in lieu of fractional shares of Controlled 5 stock, if any, is solely for the purpose of avoiding the expense and inconvenience to Controlled 5 of issuing and maintaining fractional shares and will not represent separately bargained for consideration. The total cash that will be paid in the External Distribution to any shareholder in lieu of a fractional share of Controlled 5 stock will not exceed one percent of the total consideration that will be distributed in the External Distribution. Any fractional share interests of each Distributing 8 shareholder will be aggregated, and no Distributing 8 shareholder of record will receive cash in an amount equal to or greater than the value of one full share of Controlled 5 stock.
- (12w) Neither Distributing 8 nor Controlled 5 has been a U.S. real property holding corporation ("USRPHC") as defined in section 897(c)(2) at any time during the five-year period ending on the date of the distribution, and neither Distributing 8 nor Controlled 5 will be a USRPHC immediately after the distribution.

Rulings

Based solely on the information and representations submitted, we rule as follows:

First Controlled 1 Contribution and Distribution 1

- (1) For federal income tax purposes, steps (x) through (xii) and steps (xiv) through (xv) will be treated as though Distributing 1 contributed the Business 3 DREs to Controlled 1 in exchange for all of the stock in Controlled 1 stock then distributed the Controlled 1 stock to Distributing 2 in exchange for a portion of Distributing 2's stock in Distributing 1 (the "First Controlled 1 Contribution" and "Distribution 1"). See Rev. Rul. 83-142, 1983-2 C.B. 68; Rev. Rul. 77-191, 1977-1 C.B. 94.

- (2) The First Controlled 1 Contribution and Distribution 1 together will qualify as a “reorganization” within the meaning of section 368(a)(1)(D). Distributing 1 and Controlled 1 will each be “a party to a reorganization” within the meaning of section 368(b).
- (3) Distributing 1 will recognize no gain or loss on the First Controlled 1 Contribution. Sections 357(a) and 361(a).
- (4) Controlled 1 will recognize no gain or loss on the First Controlled 1 Contribution. Section 1032(a).
- (5) Controlled 1’s basis in each asset received in the First Controlled 1 Contribution will equal the basis of such asset in the hands of Distributing 1 immediately before the First Controlled 1 Contribution. Section 362(b).
- (6) Controlled 1’s holding period in each asset received in the First Controlled 1 Contribution will include the period during which Distributing 1 held such asset. Section 1223(2).
- (7) Distributing 2 will recognize no gain or loss (and no amount will otherwise be included in its income) on its exchange of stock in Distributing 1 for stock in Controlled 1 in Distribution 1. Section 355(a)(1).
- (8) Distributing 1 will recognize no gain or loss on the distribution of the Controlled 1 stock in Distribution 1. Section 361(c)(1).
- (9) Distributing 2’s basis in the Controlled 1 stock received in Distribution 1 will be the same as the basis of the Distributing 1 stock surrendered in exchange therefor. Section 358(a)(1).
- (10) Distributing 2’s holding period in the Controlled 1 stock received in Distribution 1 will include Distributing 2’s holding period in the Distributing 1 stock exchanged therefor, provided that Distributing 2 held such Distributing 1 stock as a capital asset on the date of Distribution 1. Section 1223(1).
- (11) Earnings and profits, if any, will be allocated between Distributing 1 and Controlled 1 in accordance with section 312(h) and Treas. Reg. § 1.312-10(a).
- (12) Distributing 1’s deemed transfer of assets to Controlled 1 in the First Controlled 1 Contribution will be an exchange to which Treas. Reg. §§ 1.367(b)-1(c) and -4(a) apply.

- (13) Distributing 1's transfer of the Controlled 1 stock in Distribution 1 will be a distribution to which Treas. Reg. §§ 1.367(b)-1(c), 1.367(b)-5(a), 1.367(b)-5(d), and 1.367(b)-5(f) apply. To the extent that Distributing 2's or FSub 6's postdistribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(2)) with respect to Distributing 1 or Controlled 1 is less than their respective predistribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(1)), Distributing 2 or FSub 6 or both must include the amount of such difference in income as a deemed dividend from such corporation. Any basis increase provided in Treas. Reg. § 1.367(b)-2(e)(3)(ii) shall apply to a deemed dividend that is included in income pursuant to Treas. Reg. § 1.367(b)-5(d)(3) only to the extent that such basis increase does not increase the distributee's basis above the fair market value of such stock and does not diminish the distributee's postdistribution amount with respect to such corporation.

Second Controlled 1 Contribution and Distribution 2

- (14) For federal income tax purposes, steps (xiii) through (xv) will be treated as though Distributing 2 contributed its Business 1 assets to Controlled 1 in exchange for additional Controlled 1 stock and then distributed all of the Controlled 1 stock to FSub 4 (the "Second Controlled 1 Contribution" and "Distribution 2"). See Rev. Rul. 83-142, 1983-2 C.B. 68; Rev. Rul. 77-191, 1977-1 C.B. 94.
- (15) The Second Controlled 1 Contribution and Distribution 2 together will qualify as a reorganization within the meaning of section 368(a)(1)(D). Distributing 2 and Controlled 1 will each be "a party to a reorganization" within the meaning of section 368(b).
- (16) Distributing 2 will recognize gain on the Second Controlled 1 Contribution to the extent that the sum of the amount of liabilities assumed by Controlled 1 exceeds the total adjusted bases of the property transferred pursuant to the exchange. Section 357(c).
- (17) Controlled 1 will recognize no gain or loss on the Second Controlled 1 Contribution. Section 1032(a).
- (18) Controlled 1's basis in each asset received in the Second Controlled 1 Contribution will equal the basis of such asset in the hands of Distributing 2 immediately before the Second Controlled 1 Contribution, increased in the amount of gain, if any, recognized by Distributing 2 on the transfer. Section 362(b).

- (19) Controlled 1's holding period in each asset received in the Second Controlled 1 Contribution will include the period during which Distributing 2 held such asset. Section 1223(2).
- (20) FSub 4 will recognize no gain or loss (and no amount will otherwise be included in its income) on its receipt of Controlled 1 stock in Distribution 2. Section 355(a)(1).
- (21) Distributing 2 will recognize no gain or loss on the distribution of the Controlled 1 stock in Distribution 2. Section 361(c)(1).
- (22) FSub 4's basis in its Distributing 2 stock and Controlled 1 stock immediately after Distribution 2 will be the same as the basis of the Distributing 2 stock FSub 4 held immediately before Distribution 2, allocated in proportion to their relative fair market values at the time of Distribution 2 in accordance with Treas. Reg. § 1.358-2(a)(2). Section 358(b) and (c).
- (23) FSub 4's holding period in the Controlled 1 stock received in Distribution 2 will include the holding period of the Distributing 2 stock with respect to which such distribution will be made, provided that FSub 4 held such Distributing 2 stock as a capital asset on the date of Distribution 2. Section 1223(1).
- (24) Earnings and profits, if any, will be allocated between Distributing 2 and Controlled 1 in accordance with Section 312(h) and Treas. Reg. § 1.312-10(a).
- (25) Distributing 2's deemed transfer of assets to Controlled 1 in the Second Controlled 1 Contribution will be an exchange to which Treas. Reg. §§ 1.367(b)-1(c) and -4(a) apply.
- (26) Distributing 2's transfer of the Controlled 1 stock in Distribution 2 will be a distribution to which Treas. Reg. §§ 1.367(b)-1(c), 1.367(b)-5(a), 1.367(b)-5(c), and 1.367(b)-5(f) apply. To the extent that FSub 4's postdistribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(2)) with respect to Distributing 2 or Controlled 1 is less than its predistribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(1)), FSub 4's basis in such stock immediately after the distribution must be reduced by the amount of the difference. However, FSub 4's basis in such stock must not be reduced below zero, and to the extent the foregoing reduction would reduce its basis below zero, FSub 4 must instead include such amount in income as a deemed dividend from such corporation. If FSub 4 reduces the basis in the stock of Distributing 2 or Controlled 1 (or has an inclusion with respect to

such stock), FSub 4 must increase its basis in the stock of the other corporation to the extent provided in Treas. Reg. § 1.367(b)-5(c)(4).

FSub 4 Reorganization

- (27) For federal income tax purposes, the FSub 4 Reorganization will be treated as a transfer by FSub 4 of its assets to Distributing 3 in exchange for Distributing 3 stock and Distributing 3's assumption of the liabilities of FSub 4 followed by FSub 4's distribution of such Distributing 3 stock to its sole shareholder, Distributing 8. See Rev. Rul. 67-274, 1967-2 C.B. 141. The FSub 4 Reorganization will qualify as a reorganization described in section 368(a)(1)(F). FSub 4 and Distributing 3 are each "a party to a reorganization" within the meaning of section 368(b). The implementation of the Proposed Transaction will not preclude the FSub 4 Reorganization from qualifying as a section 368(a)(1)(F) reorganization. See Rev. Rul. 96-29, 1996-1 C.B. 50.
- (28) FSub 4 will recognize no gain or loss upon the transfer of all of its assets to Distributing 3 in exchange for Distributing 3 stock and the assumption of liabilities. Sections 361(a) and 357(a).
- (29) Distributing 3 will recognize no gain or loss upon its receipt of the FSub 4 assets in exchange for Distributing 3 stock. Section 1032(a).
- (30) Distributing 3's basis in the assets acquired from FSub 4 will be the same as FSub 4's basis in such assets immediately before the FSub 4 Reorganization. Section 362(b).
- (31) Distributing 3's holding period for the assets acquired from FSub 4 will include the period during which FSub 4 held such assets. Section 1223(2).
- (32) FSub 4 will recognize no gain or loss on the distribution to Distributing 8 of the Distributing 3 stock. Section 361(c)(1).
- (33) Distributing 8 will recognize no gain or loss upon the exchange of its FSub 4 stock for the stock of Distributing 3. Section 354(a)(1).
- (34) Distributing 8's basis in the Distributing 3 stock received in the FSub 4 Reorganization will be the same as Distributing 8's basis in the FSub 4 stock exchanged therefor, as determined immediately prior to the FSub 4 Reorganization. Section 358(a)(1).
- (35) Distributing 8's holding period for the Distributing 3 stock will include the period during which Distributing 8 held the FSub 4 stock exchanged therefor,

provided Distributing 8 held the FSub 4 stock as a capital asset at the time of the exchange. Section 1223(1).

- (36) The taxable year of FSub 4 will not close on the date of the FSub 4 Reorganization and such taxable year will continue in the name of Distributing 3. Treas. Reg. § 1.381(b)-1
- (37) Subject to the conditions and limitations of sections 381, 382, 383, and 384 and the regulations thereunder, and Treas. Reg. §§ 1.367(b)-7 and 1.367(b)-9, Distributing 3 will succeed to and take into account the tax attributes of FSub 4 described in section 381(c). Section 381(a) and Treas. Reg. § 1.381(a)-1.
- (38) No amount will be included in income as a deemed dividend equal to the section 1248 amount under section 367(b) as a result of the FSub 4 Reorganization (Treas. Reg. § 1.367(b)-4(b)), which is being treated as a reorganization under section 368(a)(1)(F).

Controlled 2 Contribution, Distribution 3, and Distribution 4

- (39) For federal income tax purposes, steps (xx) through (xxiii) will be treated as though Distributing 2 contributed its interests in FSub 5 and Distributing 1 and other assets to Controlled 2 in exchange for all of the stock in Controlled 2 and then distributed the Controlled 2 stock to Distributing 3 (the “Controlled 2 Contribution and “Distribution 3”), and then Distributing 3 distributed all of the stock in Controlled 2 to Distributing 8 (“Distribution 4”). See Rev. Rul. 83-142, 1983-2 C.B. 68.
- (40) The Controlled 2 Contribution and Distribution 3 together will qualify as a reorganization under section 368(a)(1)(D). Distributing 2 and Controlled 2 each will be “a party to a reorganization” within the meaning of section 368(b).
- (41) Distributing 2 will recognize no gain or loss on the Controlled 2 Contribution. Sections 357(a) and 361(a).
- (42) Controlled 2 will recognize no gain or loss on the Controlled 2 Contribution. Section 1032(a).
- (43) Controlled 2’s basis in each asset received in the Controlled 2 Contribution will equal the basis of such asset in the hands of Distributing 2 immediately before the Controlled 2 Contribution. Section 362(b).

- (44) Controlled 2's holding period in each asset received in the Controlled 2 Contribution will include the period during which Distributing 2 held such asset. Section 1223(2).
- (45) Distributing 2 will recognize no gain or loss on the distribution of the Controlled 2 stock in Distribution 3. Section 361(c)(1).
- (46) Distributing 3 will recognize no gain or loss on its receipt of Controlled 2 stock in Distribution 3. Section 355(a)(1).
- (47) Distributing 3's basis in its Distributing 2 stock and Controlled 2 stock immediately after Distribution 3 will be the same as the basis of the Distributing 2 stock Distributing 3 held immediately before Distribution 3, allocated in proportion to their relative fair market values at the time of Distribution 2 in accordance with Treas. Reg. § 1.358-2(a)(2). Section 358(b) and (c).
- (48) Distributing 3's holding period in the Controlled 2 stock received in Distribution 3 will include the holding period of the Distributing 2 stock with respect to which such distribution is made, provided that Distributing 3 held such Distributing 2 stock as a capital asset on the date of Distribution 3. Section 1223(1).
- (49) Earnings and profits, if any, will be allocated between Distributing 2 and Controlled 2 in accordance with section 312(h) and Treas. Reg. § 1.312-10(a).
- (50) Distributing 2's transfer of assets to Controlled 2 in the Controlled 2 Contribution will be an exchange to which Treas. Reg. §§ 1.367(b)-1(c) and -4(a) apply.
- (51) Distributing 2's transfer of the Controlled 2 stock in Distribution 3 will be a distribution to which Treas. Reg. §§ 1.367(b)-1(c), 1.367(b)-5(a), 1.367(b)-5(c), and 1.367(b)-5(f) apply. To the extent that Distributing 3's postdistribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(2)) with respect to Distributing 2 or Controlled 2 is less than its predistribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(1)), Distributing 3's basis in such stock immediately after the distribution must be reduced by the amount of the difference. Distributing 3's basis in such stock, however, must not be reduced below zero, and to the extent the foregoing reduction would reduce its basis below zero, Distributing 3 must instead include such amount in income as a deemed dividend from such corporation. If Distributing 3 reduces the basis in the stock of Distributing 2 or Controlled 2 (or has an inclusion with respect to such stock), Distributing 3 must increase its basis in

the stock of the other corporation to the extent provided in Treas. Reg. § 1.367(b)-5(c)(4).

- (52) Distributing 3 will recognize no gain or loss on the distribution of Controlled 2 stock in Distribution 4. Section 355(c)(1).
- (53) Distributing 8 will recognize no gain or loss (and no amount will be included in its income) on its receipt of Controlled 2 stock in Distribution 4. Section 355(a)(1).
- (54) Distributing 8's basis in its Distributing 3 stock and Controlled 2 stock immediately after Distribution 4 will be the same as the basis of the Distributing 3 stock Distributing 8 held immediately before Distribution 4, allocated in proportion to their relative fair market values at the time of Distribution 4 in accordance with Treas. Reg. § 1.358-2(a)(2). Section 358(b) and (c).
- (55) Distributing 8's holding period in the Controlled 2 stock received in Distribution 4 will include the holding period of the Distributing 3 stock with respect to which such distribution is made, provided that Distributing 8 held such Distributing 3 stock as a capital asset on the date of Distribution 4. Section 1223(1).
- (56) Distributing 3's earnings and profits will be adjusted and Controlled 2's earnings and profits will be determined in accordance with section 312(h) and Treas. Reg. § 1.312-10(b).
- (57) Distributing 3's transfer of the Controlled 2 stock in Distribution 4 will be a distribution to which Treas. Reg. §§ 1.367(b)-1(c), 1.367(b)-5(a), 1.367(b)-5(c), and 1.367(b)-5(f) apply. To the extent that Distributing 8's postdistribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(2)) with respect to Distributing 3 or Controlled 2 is less than its predistribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(1)), Distributing 8's basis in such stock immediately after the distribution must be reduced by the amount of the difference. Distributing 8's basis in such stock, however, must not be reduced below zero, and to the extent the foregoing reduction would reduce its basis below zero, Distributing 8 must instead include such amount in income as a deemed dividend from such corporation. If Distributing 8 reduces the basis in the stock of Distributing 3 or Controlled 2 (or has an inclusion with respect to such stock), Distributing 8 must increase its basis in the stock of the other corporation to the extent provided in Treas. Reg. § 1.367(b)-5(c)(4).

- (58) The merger of Sub 3 into Distributing 9 will constitute a reorganization within the meaning of section 368(a)(1)(A). Sub 3 and Distributing 9 will each be “a party to the reorganization” within the meaning of section 368(b).
- (59) Sub 3 will recognize no gain or loss on the transfer of all of its assets to Distributing 9 in exchange for Distributing 9 stock and the assumption of liabilities. Sections 357(a) and 361(a).
- (60) Distributing 9 will recognize no gain or loss upon the receipt of the Sub 3 assets in exchange for Distributing 9 stock. Section 1032(a).
- (61) Distributing 9’s basis in the assets acquired from Sub 3 will be the same as Sub 3’s basis in such assets immediately before the merger. Section 362(b).
- (62) Distributing 9’s holding period for the assets acquired from Sub 3 will include the period during which Distributing 9 held such assets. Section 1223(2).
- (63) Sub 3 will recognize no gain or loss on the distribution to Distributing 8 of the Distributing 9 stock. Section 361(c)(1).
- (64) Distributing 8 will recognize no gain or loss upon the surrender of its Sub 3 stock in exchange for the stock of Distributing 9. Section 354(a)(1).
- (65) The basis of the Distributing 9 stock in the hands of Distributing 8 will be equal to the basis of the Sub 3 stock Distributing 8 surrendered in exchange therefor. Section 358(a)(1).
- (66) The holding period for the Distributing 9 stock in the hands of Distributing 8 will include the period during which Distributing 8 held the Sub 3 stock exchanged therefor, provided that Distributing 8 held the Sub 3 stock as a capital asset on the date of the exchange. Section 1223(1).
- (67) As provided by section 381(a), Distributing 9 will succeed to the tax attributes of Sub 3 enumerated in section 381(c).

Controlled 3 Contribution and Distribution 5

- (68) The Controlled 3 Contribution and Distribution 5 together will qualify as a reorganization within the meaning of section 368(a)(1)(D). Distributing 4 and Controlled 3 will each be “a party to the reorganization” within the meaning of section 368(b).

- (69) Distributing 4 will recognize no gain or loss on the Controlled 3 Contribution. Sections 357(a) and 361(a).
- (70) Controlled 3 will recognize no gain or loss on the Controlled 3 Contribution. Section 1032(a).
- (71) Distributing 4 will recognize no gain or loss on the distribution of the Controlled 3 stock in Distribution 5. Section 361(c)(1).
- (72) Distributing 5 will recognize no gain or loss (and no amount will be included in its income) on its receipt of Controlled 3 stock in Distribution 5. Section 355(a)(1).
- (73) Distributing 5's basis in its Distributing 4 stock and Controlled 3 stock immediately after Distribution 5 will be the same as the basis of the Distributing 4 stock which Distributing 5 held immediately before Distribution 5, allocated in proportion to their relative fair market values at the time of Distribution 5 in accordance with Treas. Reg. § 1.358-2(a)(2). Section 358(b) and (c).
- (74) Distributing 5's holding period in the Controlled 3 stock received in Distribution 5 will include the holding period of the Distributing 4 stock with respect to which such distribution is made, provided Distributing 5 held such Distributing 4 stock as a capital asset on the date of Distribution 5. Section 1223(1).
- (75) Earnings and profits, if any, will be allocated between Distributing 4 and Controlled 3 in accordance with section 312(h) and Treas. Reg. § 1.312-10(a).

Distribution 6, Distribution 7, and Distribution 8

The following rulings incorporate the definitions of Distributing, Distributing Shareholder, Controlled, and Contribution as set forth in the table above.

- (76) Distributing will recognize no gain or loss on the distribution of the Controlled stock in the Distribution. Section 355(c)(1).
- (77) Distributing Shareholder will recognize no gain or loss on its receipt of the Controlled stock in the Distribution. Section 355(a)(1).
- (78) Distributing Shareholder's basis in its Distributing stock and Controlled stock immediately after the Distribution will be the same as the basis of the Distributing stock Distributing Shareholder held immediately before the Distribution, allocated in proportion to their relative fair market values at the

time of the Distribution in accordance with Treas. Reg. § 1.358-2(a)(2). Section 358(b) and (c).

- (79) Distributing Shareholder's holding period in the Controlled stock received in the Distribution will include the holding period of the Distributing stock with respect to which such Distribution is made, provided that Distributing Shareholder held such Distributing stock as a capital asset on the date of the Distribution. Section 1223(1).
- (80) Distributing's earnings and profits will be adjusted and Controlled's earnings and profits will be determined in accordance with section 312(h) and Treas. Reg. § 1.312-10(b).

Controlled 3 Conversion

- (81) The Controlled 3 Conversion will be treated as a distribution by Controlled 3 in complete liquidation under section 332(a).
- (82) Distributing 8 will recognize no gain or loss on the deemed receipt of the assets and liabilities of Controlled 3 in the Controlled 3 Conversion. Section 332(a).
- (83) Controlled 3 will recognize no gain or loss on the deemed distribution of its assets and liabilities to Distributing 8 in the Controlled 3 Conversion. Section 337(a).
- (84) Distributing 8's basis in each asset of Controlled 3 deemed received in the Controlled 3 Conversion will equal the basis of such asset in the hands of Controlled 3 immediately before the Controlled 3 Conversion. Section 334(b)(1).
- (85) Distributing 8's holding period in each asset of Controlled 3 deemed received in the Controlled 3 Conversion will include the period during which Controlled 3 held such asset. Section 1223(2).
- (86) Distributing 8 will succeed to and take into account the items of Controlled 3 described in Section 381(c), subject to the conditions and limitations specified in sections 381, 382, 383, and 384 and the regulations thereunder. Section 381(a)(1) and Treas. Reg. § 1.381(a)-1.
- (87) Except to the extent Controlled 3's earnings and profits are reflected in Distributing 8's earnings and profits, Distributing 8 will succeed to and take into account the earnings and profits, or deficit in earnings and profits, of Controlled 3 as of the date of the Controlled 3 Conversion. Section

381(c)(2)(A) and Treas. Reg. §§ 1.381(c)(2)-1, 1.1502-33(a)(2). Any deficit in the earnings and profits of Controlled 3 will be used only to offset earnings and profits accumulated after the date of the Controlled 3 Conversion. Section 381(c)(2)(B).

Distribution 9

- (88) Distributing 8 will recognize no gain or loss on the distribution of Distributing 7 stock in Distribution 9. Section 355(c)(1).
- (89) Sub 11 will recognize no gain or loss on its exchange of stock in Distributing 8 for Distributing 7 stock in Distribution 9. Section 355(a)(1).
- (90) Sub 11's basis in the Distributing 7 stock immediately after the Distribution 9 will be the same as the basis of the Distributing 8 stock surrendered in exchange therefor. Section 358(a)(1).
- (91) Sub 11's holding period in the Distributing 7 stock received in Distribution 9 will include Sub 11's holding period in the Distributing 8 stock exchanged therefor, provided that Sub 11 held such Distributing 8 stock as a capital asset on the date of Distribution 9. Section 1223(1).
- (92) No adjustment will be made to the earnings and profits of Distributing 8.

Distributing 9 Contribution

- (93) Distributing 8 will recognize no gain or loss on the Distributing 9 Contribution. Section 351(a).
- (94) Distributing 9 will recognize no gain or loss on the Distributing 9 Contribution. Section 1032.
- (95) Distributing 8's basis in its stock of Distributing 9 will be increased by an amount equal to the basis of the transferred assets and such increased basis shall not be separately tracked within any share. Section 358(a).
- (96) Distributing 8's holding period in the Distributing 9 stock constructively received in the Distributing 9 Contribution will include Distributing 8's holding period in the transferred assets, provided that Distributing 8 held such assets as capital assets on the date of the Distributing 9 Contribution. Section 1223(1).

- (97) Distributing 9's basis in each asset received in the Distributing 9 Contribution will equal the basis of such asset in the hands of Distributing 8 immediately before the Distributing 9 Contribution. Section 362(a)(1).
- (98) Distributing 9's holding period in each asset received in the Distributing 9 Contribution will include the holding period during which Distributing 8 held such asset. Section 1223(2).

Sub 11 Contribution

- (99) Distributing 9 will recognize no gain or loss on the Sub 11 Contribution. Section 351(a).
- (100) Sub 11 will recognize no gain or loss on the Sub 11 Contribution. Section 1032.
- (101) Distributing 9's basis in its stock of Sub 11 will be increased by an amount equal to the basis of the transferred assets and such increased basis shall not be separately tracked within any share. Section 358(a).
- (102) Distributing 9's holding period in the Sub 11 stock constructively received in the Sub 11 Contribution will include Distributing 9's holding period in the transferred assets, provided that Distributing 9 held such assets as capital assets on the date of the Sub 11 Contribution. Section 1223(1).
- (103) Sub 11's basis in each asset received in the Sub 11 Contribution will equal the basis of such asset in the hands of Distributing 9 immediately before the Sub 11 Contribution. Section 362(a)(1).
- (104) Sub 11's holding period in each asset received in the Sub 11 Contribution will include the holding period during which Distributing 9 held such asset. Section 1223(2).

Sub 16 Exchange

- (105) The Sub 16 Exchange, followed by the pre-arranged sale of the Sub 16 non-voting preferred stock pursuant to the Sale Agreement, will be treated as:
 - (i) a sale of j percent of the stock of FSub 3 and the stock of Sub 2 by Distributing 9; and
 - (ii) a sale of the assets of DRE 6 and DRE 7 by Distributing 9, in each case, to Sub 16 pursuant to which gain or loss is recognized. Section 1001(a) and Rev. Rul. 79-70, 1979-1 C.B. 144.

- (106) Assuming completion of the Proposed Transaction, Sub 16's acquisition of j percent of the FSub 3 stock from Distributing 9 pursuant to the Sub 16 Exchange will be a "qualified stock purchase" within the meaning of section 338(d)(3).
- (107) Assuming an election under section 338(g) is effected with respect to FSub 3, an election under section 338(g) can be made for any of the FSub 3 foreign subsidiaries, so long as an election under 338(g), as applicable, is made for each higher-tier corporation in the same chain of corporations as the FSub 3 foreign subsidiaries.
- (108) The sale of the DRE 6 and DRE 7 interests by Distributing 9 to Sub 16 (treated as a sale of the DRE 6 and DRE 7 assets) is not a sale or exchange of property, either directly or indirectly, between related persons for purposes of section 1239(a). See Treas. Reg. § 1.1502-13(d)(1)(ii)(A)(1).
- (109) Immediately before the External Distribution, Distributing 9 will take into account the losses recognized as a result of the Sub 16 Exchange. Section 267(f)(2)(B) and Treas. Reg. § 1.267(f)-1(c).
- (110) Any goodwill, going concern value and other "section 197 intangibles" for which depreciation or amortization would not have been allowable but for section 197 with respect to the DRE 6 and DRE 7 assets will not be subject to the anti-churning rules of section 197(f)(9) and will constitute "amortizable section 197 intangibles." Treas. Reg. § 1.197-2(h)(6).

Controlled 4 Contribution and Distribution 10

- (111) The Controlled 4 Contribution and Distribution 10 together will qualify as a reorganization under section 368(a)(1)(D). Distributing 9 and Controlled 4 will each be "a party to a reorganization" within the meaning of section 368(b).
- (112) Distributing 9 will recognize no gain or loss on the Controlled 4 Contribution. Sections 357(a) and 361(a).
- (113) Controlled 4 will recognize no gain or loss on the Controlled 4 Contribution. Section 1032(a).
- (114) Controlled 4's basis in each asset received in the Controlled 4 Contribution will equal the basis of such asset in the hands of Distributing 9 immediately before the Controlled 4 Contribution. Section 362(b).

- (115) Controlled 4's holding period in each asset received in the Controlled 4 Contribution will include the period during which Distributing 9 held such asset. Section 1223(2).
- (116) Distributing 8 will recognize no gain or loss (and no amount will otherwise be included in its income) on its receipt of the Controlled 4 stock in Distribution 10. Section 355(a)(1).
- (117) Distributing 9 will recognize no gain or loss on the distribution of the Controlled 4 stock in Distribution 10. Section 361(c).
- (118) Distributing 8's basis in its Distributing 9 stock and Controlled 4 stock immediately after Distribution 10 will be the same as the basis of the Distributing 9 stock held by Distributing 8 immediately before the Distribution 10, allocated in proportion to their relative fair market values on the date of Distribution 10 in accordance with Treas. Reg. § 1.358-2(a)(2). Section 358(b) and (c).
- (119) Distributing 8's holding period in the Controlled 4 stock received in Distribution 10 will include the holding period of the Distributing 9 stock with respect to which such distribution is made, provided that Distributing 8 held such Distributing 9 stock as a capital asset on the date of Distribution 10. Section 1223(1).
- (120) Earnings and profits, if any, will be allocated between Distributing 9 and Controlled 4 in accordance with section 312(h) and Treas. Reg. § 1.312-10(a).

Controlled 4 Merger

- (121) The merger of Controlled 4 into Controlled 5 will constitute a reorganization within the meaning of section 368(a)(1)(A). Controlled 4 and Controlled 5 will each be "a party to the reorganization" within the meaning of section 368(b).
- (122) Controlled 4 will recognize no gain or loss on the transfer of all of its assets to Controlled 5 in exchange for Controlled 5 stock and the assumption of liabilities. Sections 361(a) and 357(a).
- (123) Controlled 4 will recognize no gain or loss on the distribution of the Controlled 5 stock to Distributing 8. Section 361(c).
- (124) Controlled 5 will recognize no gain or loss upon the receipt of the Controlled 4 assets in exchange for the Controlled 5 stock. Section 1032(a).

- (125) Controlled 5's basis in the assets acquired from Controlled 4 will be the same as Controlled 4's basis in such assets immediately before the merger. Section 362(b).
- (126) Controlled 5's holding period in each asset acquired from Controlled 4 will include the period during which Controlled 4 held such asset. Section 1223(2).
- (127) Distributing 8 will recognize no gain or loss upon the receipt of the stock of Controlled 5 in exchange for the stock of Controlled 4. Section 354(a)(1).
- (128) Distributing 8's basis in the Controlled 5 stock will equal the basis of the Controlled 4 stock surrendered by Distributing 8 in exchange therefor. Section 358(a)(1).
- (129) Distributing 8's holding period in the Controlled 5 stock will include the period during which Distributing 8 held the Controlled 4 stock exchanged therefor, provided that the Controlled 4 stock is held as a capital asset in the hands of Distributing 8 on the date of the exchange pursuant to section 1223(1).
- (130) As provided by section 381(a), Controlled 5 will succeed to the tax attributes of Controlled 4 enumerated in section 381(c).

External Distribution

- (131) The Controlled 5 Contribution and the External Distribution together will qualify as a reorganization under section 368(a)(1)(D). Distributing 8 and Controlled 5 will each be "a party to a reorganization" within the meaning of section 368(b).
- (132) Distributing 8 will recognize no gain or loss on the Controlled 5 Contribution. Sections 357(a) and 361(a).
- (133) Controlled 5 will recognize no gain or loss on the Controlled 5 Contribution. Section 1032(a).
- (134) Controlled 5's basis in each asset received in the Controlled 5 Contribution will equal the basis of such asset in the hands of Distributing 8 immediately before the Controlled 5 Contribution. Section 362(b).
- (135) Controlled 5's holding period in each asset received in the Controlled 5 Contribution will include the period during which Distributing 8 held such asset. Section 1223(2).

- (136) Distributing 8 will recognize no gain or loss on the distribution of the Controlled 5 stock in the External Distribution. Section 361(c)(1).
- (137) For federal income tax purposes, the U.S. Shareholders will be treated as receiving, through the Country A Shareholders, solely additional shares of Distributing 8 stock in the External Distribution.
- (138) Distributing 8 shareholders will recognize no gain or loss (and will not otherwise include any amount in their income) on their receipt of the Controlled 5 stock in the External Distribution. Section 355(a)(1).
- (139) Each Distributing 8 shareholder's basis in the Distributing 8 stock and the Controlled 5 stock immediately after the External Distribution will be the same as the basis of the Distributing 8 stock held by such shareholder immediately before the External Distribution, allocated in proportion to their relative fair market values before the External Distribution in accordance with Treas. Reg. § 1.358-2(a)(2). Section 358(a)-(c).
- (140) Each Distributing 8 shareholder's holding period in the Controlled 5 stock received in the External Distribution will include the holding period of the Distributing 8 stock with respect to which such distribution is made, provided that the shareholder holds such Distributing 8 stock as a capital asset on the date of the External Distribution. Section 1223(1).
- (141) Earnings and profits, if any, will be allocated between Distributing 8 and Controlled 5 in accordance with section 312(h) and Treas. Reg. § 1.312-10(a).
- (142) The receipt by Distributing 8 shareholders of cash in lieu of fractional shares of Controlled 5 will be treated for federal income tax purposes as if the fractional shares had been distributed to the Distributing 8 shareholders in the External Distribution and then had been disposed of by such shareholders for the amount of such cash in a sale or exchange pursuant to which gain or loss is recognized under section 1001. Provided the fractional share interest is a capital asset in the hands of the recipient shareholder, the gain or loss will constitute capital gain or loss. Sections 1221 and 1222.
- (143) The U.S. Shareholders will include no amount of gain or loss in the income upon the receipt of additional Distributing 8 stock. Section 305(a).
- (144) The basis of the Distributing 8 stock held by each of the U.S. Shareholders immediately after the External Distribution will equal the basis of the Distributing 8 stock the U.S. Shareholders held before the External

Distribution, allocated between the Distributing 8 stock held before the External Distribution and the Distributing 8 stock received in the External Distribution in proportion to the fair market value of each. Section 307(a) and Treas. Reg. § 1.307-1(a).

- (145) Except for purposes of section 355(g), payments made between Distributing 8 and any of its affiliates and Controlled 5 and any of its affiliates in connection with the Legal Matters, Refund Amounts, or Cash Contribution Adjustment which (i) have arisen or will arise for a taxable period ending on or before the External Distribution or for a taxable period beginning before and ending after the External Distribution and (ii) will not become fixed and ascertainable until after the External Distribution, will be viewed as occurring before the External Distribution. See *Arrowsmith v. Commissioner*, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84.

Caveats

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. In particular, this office has not reviewed any information pertaining to and has made no determination regarding:

- (i) Whether Distributions 1-10 and the External Distribution satisfy the business purpose requirement of Treas. Reg. § 1.355-2(b);
- (ii) Whether Distributions 1-10 and the External Distribution are used principally as a device for the distribution of earnings and profits of any distributing corporation or controlled corporation or combination thereof (see section 355(a)(1)(B) and Treas. Reg. § 1.355-2(d));
- (iii) Whether Distributions 1-10 and the External Distribution are part of a plan (or a series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in any distributing corporation or any controlled corporation (see section 355(e)(2)(A)(ii) and Treas. Reg. § 1.355-7);
- (iv) The federal tax consequences of steps (i) through (iii) of the Proposed Transaction;
- (v) The federal tax consequences of step (xix) of the Proposed Transaction;
- (vi) The federal tax consequences of step (xxiv) of the Proposed Transaction;

- (vii) The federal tax consequences of step (xxvi) of the Proposed Transaction;
- (viii) The federal tax consequences of step (xxvii) of the Proposed Transaction;
- (ix) The federal tax consequences of step (xxviii) of the Proposed Transaction (the Controlled 3 Contribution) under Subchapter K of the Code arising from Distributing 4's contribution of its entire interest in PRS 1 to Controlled 3; and
- (x) The federal tax consequences of steps (xxxviii) and (xxxix) of the Proposed Transaction.

Procedural Statements

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

A. Graham Magill

A. Graham Magill
Assistant Branch Chief, Branch 5
Office of Associate Chief Counsel (Corporate)